

Summary Page

Name of Facility LanzaTech Freedom Pines Biorefinery

Pretreatment Permit No. GAP050299

This permit is a reissuance of a pretreatment permit for LanzaTech Freedom Pines Biorefinery. The facility discharges a maximum of 0.10 MGD of cooling tower blowdown, boiler blowdown, and process wastewater. This facility discharges to the Soperton WPCP in the Oconee River Basin. The permit expired on July 31, 2020 and became administratively extended.

The permit was placed on public notice from September 15, 2020 to October 30, 2020.

Please Note The Following Changes to the Proposed Pretreatment Permit From The Existing Permit

Part I.A.1. – Effluent Limitations and Monitoring Requirements

- ☐ Revised BOD₅ concentration-based effluent limit from 54.0 mg/L daily maximum to 200.0 mg/L daily maximum, based on the sewer use ordinance and updated sewer use agreement between LanzaTech and the City of Soperton WPCP.
- ☐ Added nickel concentration-based effluent limits of 0.06 mg/L daily average and daily maximum and mass-based effluent limits of 0.050 lbs/day daily average and daily maximum based on the Local Limits Evaluation and a permitted flow of 0.1 MGD.
- ☐ Added zinc concentration-based effluent limits of 0.68 mg/L daily average and daily maximum and mass-based effluent limits of 0.567 lbs/day daily average and daily maximum based on the Local Limits Evaluation and a permitted flow of 0.1 MGD.
- ☐ Added selenium concentration-based effluent limits of 0.04 mg/L daily average and daily maximum and mass-based effluent limits of 0.033 lbs/day daily average and daily maximum based on the Local Limits Evaluation and a permitted flow of 0.1 MGD.

Standard Conditions & Boilerplate Modifications

The permit boilerplate includes modified language or added language consistent with other Pretreatment permits.

Final Permit Determinations and Public Comments

- ☒ Final issued permit did not change from the draft permit placed on public notice.
- ☒ Public comments were received during public notice period.
- ☐ Public hearing was held.
- ☐ Final permit includes changes from the draft permit placed on public notice. See attached permit revisions and/or permit fact sheet revisions document(s)



Richard E. Dunn, Director

Watershed Protection Branch

2 Martin Luther King, Jr. Drive
Suite 1152, East Tower
Atlanta, Georgia 30334
404-463-1511

Persons who commented on
Draft Pretreatment Permit No. GAP050299

11/09/2020

RE: EPD Response to Comments
LanzaTech Freedom Pines Biorefinery
Pretreatment Permit No. GAP050299

To Whom it May Concern:

Thank you for your comments regarding the permit issuance for LanzaTech Freedom Pines Biorefinery. Attached is a summary of comments from the public and our responses to the issue raised. We appreciate your interest in this matter.

After consideration of your comments, EPD has determined that the permit is protective of water quality standards and we have issued the permit.

If you have any questions, please contact Andrew Joyce of my staff at 404-232-1229.

Sincerely,

A handwritten signature in blue ink, appearing to read "Audra Dickson".

Audra Dickson, Manager
Wastewater Regulatory Program
Watershed Protection Branch

AHD/adj

**Public Comments and EPD Responses on Draft Pretreatment Permit
LanzaTech Freedom Pines Biorefinery – Permit No. GAP050299**

COMMENT RECEIVED	EPD RESPONSE
<p>Where is the Soperton Water Pollution Control Plant that LanzaTech will be discharging to? Will the discharge piping cross Rock Creek? Is there a map/layout of it on the net somewhere?</p>	<p>The City of Soperton Water Pollution Control Plant (WPCP) is located at Sessions Road, Soperton, Georgia 30457 in Treutlen County, approximately 3 miles to the southeast of LanzaTech Freedom Pines Biorefinery. Based on the information provided by the City of Soperton, there are no records of sewer piping crossing Rock Creek. The discharge and associated collection system pipe from LanzaTech Freedom Pines Biorefinery is located along Commerce Drive towards West Main Street, leading to the City of Soperton's WPCP.</p>



Richard E. Dunn, Director

EPD Director's Office

2 Martin Luther King, Jr. Drive
Suite 1456, East Tower
Atlanta, Georgia 30334
404-656-4713

Mr. Brad Hayes, EHS Manager
LanzaTech Freedom Pines Biorefinery
535 Commerce Drive
Soperton, Georgia 30457

11/09/2020

RE: Permit Issuance
LanzaTech Freedom Pines Biorefinery
Pretreatment Permit No. GAP050299
Treutlen County, Oconee River Basin

Dear Mr. Hayes:

Pursuant to the Georgia Water Quality Control Act, as amended, the Federal Clean Water Act, as amended, and the Rules and Regulations promulgated thereunder, we have issued the attached permit for the above-referenced facility.

Your facility has been assigned to the following EPD office for reporting and compliance. Signed copies of all required reports shall be submitted to the following address:

Environmental Protection Division
EPD East Central District (Augusta) Office
3525 Walton Way Ext.
Augusta, Georgia 30909

Please be advised that on and after the effective date indicated in the permit, the permittee must comply with all terms, conditions, and limitations of the permit. If you have questions concerning this correspondence, please contact Andrew Joyce at 404.232.1229 or andrew.joyce@dnr.ga.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. Dunn".

Richard E. Dunn
Director

RED:aj

cc: EPD Watershed Compliance Program – Karen Sauler (karen.sauler@dnr.ga.gov)
Soperton Water & Wastewater Department – Jackie Griffin (sopertonwater@yahoo.com)



Industrial Pretreatment Permit

In accordance with the provisions of the Georgia Water Quality Control Act (Georgia Laws 1964, p. 416, as amended), hereinafter called the State Act; the Federal Water Pollution Control Act, as amended (33 U.S. C. 1251 et seq.), hereinafter called the Federal Act; and the Rules and Regulations promulgated pursuant to each of these Acts,

LanzaTech Freedom Pines Biorefinery
535 Commerce Drive
Soperton, Georgia 30457

is authorized to discharge from a facility located at

535 Commerce Drive
Soperton, Georgia 30457
Treutlen County

to the sewerage system tributary to the

Soperton Water Pollution Control Plant (Oconee River Basin)

in accordance with effluent limitations, monitoring requirements and other conditions set forth in the permit.

This permit is issued in reliance upon the permit application signed on January 28, 2020, and any other applications upon which this permit is based, supporting data entered therein or attached thereto, and any subsequent submittal of supporting data.

This facility is subject to the terms, conditions and requirements of 40 Code of Federal Regulations (CFR) Part 403 and the Georgia Water Quality Control Act Chapter 391-3-6.

This permit shall become effective on December 01, 2020.

This permit and the authorization to discharge shall expire at midnight November 30, 2025.



A handwritten signature in dark ink, appearing to read "R. Dunn".

Richard E. Dunn, Director
Environmental Protection Division

PART I

A. Effluent Limitations and Monitoring Requirements

- During the period specified on the first page of this permit, the permittee is authorized to discharge from outfall no. 001: Cooling tower blowdown, boiler blowdown, and process wastewater to the sewerage system and publicly owned treatment works (POTW) at the Soperton WPCP.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristics (Specify Units)	Discharge Limitations				Monitoring Requirements ¹		
	Mass Based (lbs/day)		Concentration Based (mg/L)		Measurement Frequency	Sample Type	Sample Location
	Daily Avg.	Daily Max.	Daily Avg.	Daily Max.			
Flow (MGD)	0.10	0.10			Daily	Continuous Recording	Final Effluent ²
BOD ₅			Report	200.0	2/Month	Grab	Final Effluent ²
TSS			Report	350	2/Month	Grab	Final Effluent ²
Oil & Grease			Report	7.0	2/Month	Grab	Final Effluent ²
Ammonia, as N			Report	25.0	2/Month	Grab	Final Effluent ²
Total Nitrogen			Report	47.0	2/Month	Grab	Final Effluent ²
Selenium, Total	0.033	0.033	0.04	0.04	2/Month	Grab	Final Effluent ²
Nickel, Total	0.050	0.050	0.06	0.06	2/Month	Grab	Final Effluent ²
Zinc, Total	0.567	0.567	0.68	0.68	2/Month	Grab	Final Effluent ²

The pH shall not be less than 6.0 standard units nor greater than 8.5 standard units and shall be monitored daily by grab sample.

The Discharge Limitations outlined above are subject to revision if dictated by Title 40, Code of Federal Regulations Part 403, (40 CFR 403) or EPD determinations. The Permittee will be notified in writing of any changes in the above listed discharge limitations

¹ All the parameters must be monitored, at a minimum, at the measurement frequency stated above if there is any discharge. If there is no discharge, state such in the discharge monitoring report for the monitoring period.

² The final effluent for purposes of sampling, monitoring and the application of pretreatment limitations is the final discharge point prior to entry into the sewerage system.

B. Monitoring

1. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.

2. Sampling Period

- a. Unless otherwise specified in this permit, quarterly samples shall be taken during the periods January-March, April-June, July-September, and October-December.
- b. Unless otherwise specified in this permit, semiannual samples shall be taken during the periods January-June and July-December.
- c. Unless otherwise specified in this permit, annual samples shall be taken during the period of January-December.

3. Monitoring Procedures

Analytical methods, sample containers, sample preservation techniques, and sample holding times must be consistent with the techniques and methods listed in 40 CFR Part 136. The analytical method used shall be sufficiently sensitive. EPA-approved methods must be applicable to the concentration ranges of the NPDES permit samples.

4. Detection Limit

All parameters will be analyzed using the appropriate detection limits. If the results for a given sample are such that a parameter is not detected at or above the specified detection limit, a value of "NOT DETECTED" will be reported for that sample and the detection limit will also be reported.

5. Recording of Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- a. The exact place, date, and time of sampling or measurements, and the person(s) performing the sampling or the measurements;
- b. The dates and times the analyses were performed, and the person(s) performing the analyses;
- c. The analytical techniques or methods used;
- d. The results of all required analyses.

6. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the Discharge Monitoring Report Form. Such increased monitoring frequency shall also be indicated. EPD may require, by written notification, more frequent monitoring or the monitoring of other pollutants not required in this permit.

7. Records Retention

The permittee shall retain records of all monitoring information, including all records of analyses performed, calibration and maintenance of instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a minimum of three (3) years from the date of the sample, measurement, report or application, or longer if requested by EPD.

8. Penalties

The Federal Clean Water Act and the Georgia Water Quality Control Act provide that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit, makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine or by imprisonment, or by both. The Federal Clean Water Act and the Georgia Water Quality Control Act also provide procedures for imposing civil penalties which may be levied for violations of the Act, any permit condition or limitation established pursuant to the Act, or negligently or intentionally failing or refusing to comply with any final or emergency order of the Director of EPD.

C. Definitions

1. A "bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
2. A "calendar day" is defined as any consecutive 24-hour period.
3. A "composite" sample shall consist of samples collected at intervals not less frequently than every two hours for a period of 24 hours or for the actual time the pretreatment facility is discharging (if less than 24 hours), and composited according to flow.
4. The "daily average" mass means the total discharge by mass during a calendar month divided by the number of days in the month that the production or commercial facility was operating. Where less than daily sampling is required by this permit, the daily average discharge shall be determined by the summation of all the measured daily discharges by weight divided by the number of days sampled during the calendar month when the measurements were made.
5. The "daily maximum" mass means the total discharge by mass during any calendar day.
6. The "daily average" concentration means the arithmetic average of all the daily determinations of concentrations made during a calendar month. Daily determinations of concentration made using a composite sample shall be the concentration of the composite sample.
7. The "daily maximum" concentration means the daily determination of concentration for any calendar day.
8. The "daily maximum flow" is the largest total volume determined for any 24 hour period.
9. "EPD" as used herein means the Environmental Protection Division of the Department of Natural Resources.
10. A "POTW" as used herein means Publicly-Owned Treatment Works.
11. The "Rules" as used herein means the Georgia Rules and Regulations for Water Quality Control.
12. "Severe property damage" means substantial physical damage to property, damage to treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
13. The "State Act" as used herein means the Georgia Water Quality Control Act (Official Code of Georgia Annotated; Title 12, Chapter 5, Article 2).

D. Reporting Requirements

1. The permittee must electronically report the DMR, OMR and additional monitoring data using the web based electronic NetDMR reporting system, unless a waiver is granted by EPD.
 - a. The permittee must comply with the Federal National Pollutant Discharge Elimination System Electronic Reporting regulations in 40 CFR §127. The permittee must electronically report the DMR, OMR, and additional monitoring data using the web based electronic NetDMR reporting system online at: <https://netdmr.epa.gov/netdmr/public/home.htm>
 - b. Monitoring results obtained during the calendar month shall be summarized for each month and reported on the DMR. The results of each sampling event shall be reported on the OMR and submitted as an attachment to the DMR.
 - c. The permittee shall submit the DMR, OMR and additional monitoring data no later than 11:59 p.m. on the 15th day of the month following the sampling period.
 - d. All other reports required herein, unless otherwise stated, shall be submitted to the EPD Office listed on the permit issuance letter signed by the Director of EPD.
2. **No later than December 21, 2020**, the permittee must electronically report the following compliance monitoring data and reports using the online web based electronic system approved by EPD, unless a waiver is granted by EPD:
 - a. Sewer Overflow/Bypass Event Reports;
 - b. Noncompliance Notification;
 - c. Other noncompliance; and
 - d. Bypass

3. Other Reports

All other reports required in this permit not listed above in Part I.D.2 or unless otherwise stated, shall be submitted to the EPD Office listed on the permit issuance letter signed by the Director of EPD.

4. Other Noncompliance

All instances of noncompliance not reported under Part I.B. and Part II. A. shall be reported to EPD at the time the monitoring report is submitted.

5. Signatory Requirements

All reports, certifications, data or information submitted in compliance with this permit or requested by EPD must be signed and certified as follows:

- a. Any State or NPDES Permit Application form submitted to the EPD shall be signed as follows in accordance with the Federal Regulations, 40 C.F.R. 122.22:
 1. For a corporation, by a responsible corporate officer. A responsible corporate officer means:
 - i a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision making functions for the corporation, or
 - ii. the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 2. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or
 3. For a municipality, State, Federal, or other public facility, by either a principal executive officer or ranking elected official.
- b. All other reports or requests for information required by the permit issuing authority shall be signed by a person designated in (a) above or a duly authorized representative of such person, if:
 1. The representative so authorized is responsible for the overall operation of the facility from which the discharge originates, e.g., a plant manager, superintendent or person of equivalent responsibility;
 2. The authorization is made in writing by the person designated under (a) above; and
 3. The written authorization is submitted to the Director.

- c. Any changes in written authorization submitted to the permitting authority under (b) above which occur after the issuance of a permit shall be reported to the permitting authority by submitting a copy of a new written authorization which meets the requirements of (b) and (b.1) and (b.2) above.
- d. Any person signing any document under (a) or (b) above shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

PART II

A. Management Requirements

1. Notification of Changes

- a. The permittee shall provide EPD at least 90 days advance notice of any planned physical alterations or additions to the permitted facility that meet the following criteria:
 1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b);
 2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR 122.42(a)(1); or
 3. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
- b. The permittee shall give at least 90 days advance notice to EPD of any planned changes to the permitted facility or activity which may result in noncompliance with permit requirements.
- c. Following the notice in paragraph a. or b. of this condition the permit may be modified. The permittee shall not make any changes, or conduct any activities, requiring notification in paragraph a. or b. of this condition without approval from EPD.
- d. The permittee shall provide at least 30 days advance notice to EPD of:
 1. any planned expansion or increase in production capacity; or
 2. any planned installation of new equipment or modification of existing processes that could increase the quantity of pollutants discharged or result in the discharge of pollutants that were not being discharged prior to the planned change

if such change was not identified in the permit application(s) upon which this permit is based and for which notice was not submitted under paragraphs a. or b. of this condition.

- e. All existing manufacturing, commercial, mining, and silvicultural dischargers shall notify EPD as soon as it is known or there is reason to believe that any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant not limited in the permit, if that discharge will exceed (i) 100 µg/L, (ii) five times the maximum concentration reported for that pollutant in the permit application, or (iii) 200 µg/L for acrolein and acrylonitrile, 500 µg/L for 2,4 dinitrophenol and for 2-methyl-4-6-dinitrophenol, or 1 mg/L antimony.
- f. All existing manufacturing, commercial, mining, and silvicultural dischargers shall notify EPD as soon as it is known or there is reason to believe that any activity has occurred or will occur which would result in any discharge on a nonroutine or infrequent basis, of any toxic pollutant not limited in the permit, if that discharge will exceed (i) 500 µg/L, (ii) ten times the maximum concentration reported for that pollutant in the permit application, or (iii) 1 mg/L antimony.
- g. Upon the effective date of this permit, the permittee shall submit to EPD an annual certification in June of each year certifying whether or not there has been any change in processes or wastewater characteristics as described in the submitted NPDES permit application that required notification in paragraph a., b., or d. of this condition. The permittee shall also certify annually in June whether the facility has received offsite wastes or wastewater and detail any such occurrences.

2. Noncompliance Notification

If, for any reason, the permittee does not comply with, or will be unable to comply with any effluent limitation specified in this permit, the permittee shall provide EPD and the owner of the receiving POTW with an oral report within 24 hours from the time the permittee becomes aware of the circumstances followed by a written report within five (5) days of becoming aware of such condition. The written submission shall contain the following information:

- a. A description of the discharge and cause of noncompliance; and
- b. The period of noncompliance, including exact dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.

3. Facility Operation

The permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

4. Adverse Impact

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

5. Bypassing

- a. Any diversion from or bypass of pretreatment facilities covered by this permit is prohibited, except where unavoidable to prevent personal injury, loss of life, or severe property damage. The permittee shall operate the pretreatment works to minimize discharge of the pollutants listed in this permit from overflows or bypasses. The permittee shall monitor all overflows, bypasses, or spills. EPD and the owner of the receiving POTW shall be notified, in advance if possible, of any overflows, bypasses or spills. A record of each overflow bypass and spill shall be kept with information on the location, cause, duration, a peak flow rate. Upon written notification by EPD, the permittee may be required to submit a plan and schedule for reducing overflows, bypasses or spills.
- b. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to EPD and the owner of the receiving POTW at least 10 days (if possible) before the date of the bypass. The permittee shall submit notice of any unanticipated bypass with an oral report within 24 hours from the time the permittee becomes aware of the circumstances followed by a written report within five (5) days of becoming aware of such condition. The written submission shall contain the following information:
 1. A description of the discharge and cause of noncompliance; and
 2. The period of noncompliance, including exact dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate and prevent recurrence of the noncomplying discharge.

6. Sludge Disposal Requirements

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering waters of the State or creating an adverse impact on the environment. Handling and disposal of such substances shall be in accordance with all applicable State and Federal regulations. Records must be maintained of the quantity (volume and concentration or mass) of such substances; the method of disposal; the location or site; and the date and time of disposal.

Sludge shall be disposed of in accordance with the regulations and guidelines established by EPD, the Federal Clean Water Act, and the Resource Conservation and Recovery Act (RCRA). Prior to disposal of sludge by any method other than co-disposal in a permitted sanitary landfill, the permittee shall submit a sludge management plan to EPD for written

approval. For land application of nonhazardous sludge, the permittee shall comply with the applicable criteria outlined in the most current version of EPD's "Guidelines for Land Application of Sewage Sludge (Biosolids) at Agronomic Rates" and with the State Rules, Chapter 391-3-6-.17. EPD may require more stringent control of this activity. Prior to land applying nonhazardous sludge, the permittee shall submit a sludge management plan to EPD for review and approval. Upon approval, the plan for land application will become a part of the NPDES permit upon modification of the permit.

7. Sludge Monitoring Requirements

The permittee shall develop and implement procedures to ensure adequate year-round sludge disposal. The permittee shall monitor the volume and concentration of solids removed from the plant. Records shall be maintained which document the quantity of solids removed from the plant. The ultimate disposal of solids shall be reported (in the unit of lbs) to EPD as specified in Part I.D of this permit.

8. Power Failures

Upon the reduction, loss, or failure of the primary source of power to said water pollution control facilities, the permittee shall use an alternative source of power if available to reduce or otherwise control production and/or all discharges in order to maintain compliance with the effluent limitations and prohibitions of this permit.

If such alternative power source is not in existence, and no date for its implementation appears in Part I, the permittee shall halt, reduce or otherwise control production and/or all discharges from wastewater control facilities upon the reduction, loss, or failure of the primary source of power to said wastewater control facilities.

9. Operator Certification Requirements

The permittee shall, when required, have a certified operator in charge of the facility in accordance with Georgia State Board of Examiners for Certification of Water and Wastewater Treatment Plant operators And Laboratory Analysts Rule 43-51-6.(b).

10. Laboratory Analyst Certification Requirements

The permittee shall ensure that, when required, the person in responsible charge of the laboratory performing the analyses for determining permit compliance is certified in accordance with the Georgia Certification of Water and Wastewater Treatment Plant operators and Laboratory Analysts Act, as amended, and the Rules promulgated thereunder.

B. Responsibilities

1. Right of Entry

The permittee shall allow the Director of EPD, the Regional Administrator of EPA, and/or their authorized representatives, agents, or employees, upon the presentation of credentials:

- a. To enter upon the permittee's premises where a discharge source is located or in which any records are required to be kept under the terms and conditions of this permit; and
- b. At reasonable times, to have access to and copy any records required to be kept under the terms and conditions of this permit; to inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and to sample any substance or parameters in any location.

2. Transfer of Ownership or Control

A permit may be transferred to another person by a permittee if:

- a. The permittee notifies the Director of EPD and the owner of the receiving POTW in writing of the proposed transfer at least thirty (30) days in advance of the proposed transfer;
- b. A written agreement containing a specific date for transfer of permit responsibility and coverage between the current and new permittee (including acknowledgement that the existing permittee is liable for violations up to that date, and that the new permittee is liable for violations from that date on) is submitted to the Director at least thirty (30) days in advance of the proposed transfer; and
- c. The Director, within thirty (30) days, does not notify the current permittee and the new permittee of EPD's intent to modify, revoke and reissue, or terminate the permit and to require that a new application be filed rather than agreeing to the transfer of the permit.

3. Availability of Reports

Except for data deemed to be confidential under O.C.G.A. § 12-5-26 or by the Regional Administrator of the EPA under the Code of Federal Regulations, Title 40, Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at an office of EPD. Effluent data, permit applications, permittee's names and addresses, and permits shall not be considered confidential.

4. Permit Modification

After written notice and opportunity for a hearing, this permit may be modified, suspended, revoked or reissued in whole or in part during its term for cause including, but not limited to, the following:

- a. Violation of any conditions of this permit;
- b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge; or
- d. To comply with any applicable effluent limitation issued pursuant to the order of the United States District Court for the District of Columbia issued on June 8, 1976, in Natural Resources Defense Council, Inc. et.al. v. Russell E. Train, 8 ERC 2120(D.D.C. 1976), if the effluent limitation so issued:
 1. is different in conditions or more stringent than any effluent limitation in the permit; or
 2. controls any pollutant not limited in the permit.

5. Toxic Pollutants

Notwithstanding Part II B.8 below, if a toxic discharge standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Federal Act for a toxic pollutant which is present in the discharge, and such standard or prohibition is more stringent than any limitation for such pollutant in this permit, this permit shall be revised or modified in accordance with the toxic discharge standard or prohibition and the permittee so notified.

6. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

7. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Federal Clean Water Act.

8. Local Ordinances

Nothing in this permit shall be construed to relieve the permittee from the responsibility of compliance with any local ordinance whose requirements are more stringent than those contained in this permit.

9. Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

10. Expiration of Permit

The permittee shall not discharge after the expiration date. In order to receive authorization to discharge beyond the expiration date, the permittee shall submit such information, forms, and fees as are required by EPD at least 180 days prior to the expiration date.

11. Contested Hearings

Any person who is aggrieved or adversely affected by an action of the Director of EPD shall petition the Director for a hearing within thirty (30) days of notice of such action.

12. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

13. Best Management Practices

The permittee will implement best management practices to control the discharge of hazardous and/or toxic materials from ancillary manufacturing activities. Such activities include, but are not limited to, materials storage, in-plant transfer, process and material handling, loading and unloading operations, plant site runoff, and sludge and waste disposal.

14. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

15. Duty to Provide Information

- a. The permittee shall furnish to the EPD Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish upon request copies of records required to be kept by this permit.
- b. When the permittee becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or any report to the Director, it shall promptly submit such facts and information.

16. Duty to Comply

- a. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Georgia Water Quality Control Act (O.C.G.A. § 12-5-20 et. seq.) and is grounds for enforcement action; for permit termination; revocation and reissuance, or modification; or for denial of a permit renewal application. Any instances of noncompliance must be reported to EPD as specified in Part I.D and Part II.A of this permit.
- b. Penalties for violations of permit conditions. The Federal Clean Water Act and the Georgia Water Quality Control Act (O.C.G.A. § 12-5-20 et. seq.) provide that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this permit, makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine or by imprisonment, or by both. The Georgia Water Quality Control Act (Act) also provides procedures for imposing civil penalties which may be levied for violations of the Act, any permit condition or limitation established pursuant to the Act, or negligently or intentionally failing or refusing to comply with any final or emergency order of the Director.

17. Upset Provisions

Provisions of 40 CFR 122.41(n)(1)-(4), regarding "Upset" shall be applicable to any civil, criminal, or administrative proceeding brought to enforce this permit.

PART III

A. Previous Permits

1. All previous State waste water permits issued to this facility, whether for construction or operation, are hereby revoked by the issuance of this permit. This action is taken to assure compliance with the Georgia Water Quality Control Act, as amended, and the Federal Clean Water Act, as amended. Receipt of the permit constitutes notice of such action. The conditions, requirements, terms and provisions of this permit authorizing discharge under the National Pollutant Discharge Elimination System govern discharges from this facility.

B. Schedule of Compliance

1. The permittee shall achieve compliance with the effluent limitations specified for discharges in accordance with the following schedule: N/A
2. No later than 14 calendar days following a date identified in the above schedule of compliance, the permittee shall submit either a report of progress or, in the case of specific actions being required by identified dates, a written notice of compliance or noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

C. Special Conditions

1. The permittee shall not discharge substances in amounts, concentrations or combinations thereof which:
 - a. interfere with the operation of the Soperton Water Pollution Control Plant;
 - b. cause pass-through of pollutants in violation of the effluent limitations specified in National Pollutant Discharge Elimination System Permit No. GA0020826;
 - c. cause municipal sludge contamination; or
 - d. cause pass-through of pollutants that result in toxicity in aquatic life in the receiving stream.
2. Slug Discharges
 - a. Slug discharge shall be defined as any discharge of a non-routine, episodic nature including, but not limited to an accidental spill or a non-customary batch discharge.
 - b. The permittee shall notify the EPD and the owner of the receiving POTW immediately of any discharge or discharges including slug discharges that could result in operational problems at the POTW.
 - c. Upon notification from the EPD, the permittee shall develop and implement a plan to control slug discharges in accordance with the requirements of 40 CFR Part 403.8.

3. If sampling performed by the permittee indicates a violation, the permittee shall immediately notify the EPD Compliance Office within twenty-four (24) hours of becoming aware of the violation. For continuous dischargers, the permittee shall also immediately, within 24 hours, repeat the sampling and analysis of all of the constituents that may have contributed to the violation. For intermittent dischargers, repeat sampling and analysis should be conducted on the subsequent discharge. The sampling results shall be submitted to the EPD Compliance Office within 30 days after becoming aware of the violation.



The Georgia Environmental Protection Division proposes to issue a Pretreatment permit to the applicant identified below. The draft permit places conditions on the discharge of pollutants from the wastewater treatment plant to waters of the State.

Technical Contact: Andrew Joyce (andrew.joyce@dnr.ga.gov)
404-232-1229

Draft permit:

<input type="checkbox"/>	first issuance
<input type="checkbox"/>	reissuance with no or minor modifications from previous permit
<input checked="" type="checkbox"/>	reissuance with substantial modifications from previous permit
<input type="checkbox"/>	modification of existing permit

1.0 FACILITY INFORMATION

1.1 Pretreatment Permit No.: GAP050299

1.2 Name and Address of Owner/Applicant

LanzaTech Freedom Pines Biorefinery
535 Commerce Drive
Soperton, Georgia 30457
Treutlen County

1.3 Name and Address of Facility

LanzaTech Freedom Pines Biorefinery
535 Commerce Drive
Soperton, Georgia 30457
Treutlen County

1.4 Facility Information

- | | |
|------------------------------|---|
| a. Average Flow: 22,000 GPD | d. Max Flow: 43,000 GPD ¹ |
| b. Categorical (Y/N): N | e. Significant Industrial User (Y/N): N |
| c. Production Based (Y/N): N | f. Production Capacity: N/A |

¹ LanzaTech has had lower discharge flows since transitioning to primarily research & development; however, the facility expects to increase flows as operations expand in the future.

1.5 SIC Code & Description: 8731 – Commercial Physical and Biological Research

1.6 Description of Industrial Processes

LanzaTech Freedom Pines Biorefinery was initially involved in the manufacturing of industrial organic chemicals, and has converted their operations to research and development. The facility has a 100 L fermentation system used to create feedstock for LanzaTech's pilot and commercial scale operations on-site and off-site. The facility additionally has three separate reactor systems to produce ethanol from gases such as hydrogen, carbon monoxide, carbon dioxide, and nitrogen. LanzaTech also utilizes an alcohol to jet (ATJ) process to catalytically convert ethanol to a range of fuel products, primarily jet and diesel fuel. The remainder of the facility's waste streams come from cooling tower blowdown, boiler blowdown, backwash from the RO system, and additional process wastes such as washing and rinsing.

1.7 Description of the Industrial Wastewater Treatment Facility

Wastewater treatment at the facility includes filtration, neutralization for pH correction, ammonia stripping, activated sludge treatment, and chlorination. The facility's wastewater treatment system also includes flow equalization and additional safeguards for spill protection.

1.8 Type of Wastewater Discharge

- ☒ process wastewater
 ☐ stormwater
☐ domestic wastewater
 ☐ other
☒ combined (cooling water blowdown, boiler blowdown)

1.9 Name and Address of Receiving POTW

City of Soperton Water Pollution Control Plant
 1369 Sessions Street
 Soperton, Georgia 30457
 Treutlen County

1.10 Location and Description of the discharge (as reported by applicant)

Outfall #	Receiving POTW	Receiving POTW Permit No.	Max Receiving POTW Permitted Flow	River Basin
001	Soperton WPCP	GA0020826	0.60 MGD (Monthly) 0.75 MGD (Weekly)	Oconee

For local limits calculation purposes, the POTW's flow was based on the DMR's reported data (2018 and 2019), in which the average monthly flow is 0.405 MGD and the average weekly flow is 0.506 MGD.

1.11 Receiving POTW Design Capacity: 0.6 MGD**1.12 Description of the POTW Wastewater Treatment**

Wastewater entering the Soperton Water Pollution Control Plant first passes through a mechanical bar screen and grit separator, before entering the biological treatment system (aeration basin followed by clarification). The POTW utilizes UV for disinfection, and sludge is sent to a digester and belt press for dewatering.

1.13 Characterization of Effluent Discharge as Reported by Applicant

The table below indicates all pollutants of concern believed present in the facility's wastewater effluent.

Outfall No. 001 – Cooling tower blowdown, boiler blowdown, and process wastewater

Effluent Characteristics (as Reported by Applicant)	Maximum Daily Value	Average Daily Value
Flow (MGD)	0.043	0.022
BOD ₅ (mg/L)	40	7.21
COD (mg/L)	31	31
TSS (mg/L)	22	5.25
Ammonia (mg/L)	5.40	1.69
TKN (mg/L)	5.80	1.77
Total Phosphorus (mg/L)	0.38	0.38
Oil & Grease (mg/L)	4.50	1.95
Nickel (mg/L)	0.0018	0.0013
Selenium (mg/L)	0.140	<0.58
Zinc (mg/L)	0.026	0.0156

2.0 APPLICABLE REGULATIONS**2.1 Local Regulations**

City of Soperton Code of Ordinances Chapter 6 (Sewer Use Ordinance)
See Appendix C for Sewer Use Ordinance

2.2 State Regulations

Chapter 391-3-6 of the Georgia Rules and Regulations for Water Quality Control

2.3 Federal Regulations

Source	Activity	Applicable Regulation
Industrial	Pretreatment	40 CFR 403
	Process Water Discharges	40 CFR 122
		40 CFR 125

2.4 Industrial Effluent Limit Guideline(s)

Code of Federal Regulations, 40 CFR Part 403.

See Appendix A For Applicable Federal Regulations

3.0 EFFLUENT LIMITS AND PERMIT CONDITIONS

3.1 Permit Development

“The national pretreatment program objectives are achieved by applying and enforcing three types of pretreatment standards:”

- General and specific prohibitions
- Categorical pretreatment standards
- Local limits

“All three types of standards can be enforced by EPA, the state, and local government, even though they are developed at different levels of government (i.e., federal, state, and local). Pretreatment standards and requirements can be expressed as numeric limits, narrative prohibitions, and best management practices.”

“The control authority is responsible for identifying standard(s) applicable to each IU and applying the most stringent requirements where multiple provisions exist.” EPA Guidance - *Applicability of Pretreatment Standards and Requirements* (<https://www.epa.gov/npdes/pretreatment-standards-and-requirements>)

“Local limits are developed for pollutants (e.g. metals, cyanide, BOD5 , TSS, oil and grease, organics) that may cause interference, pass through, sludge contamination, and/or worker health and safety problems if discharged in excess of the receiving POTW treatment plant’s capabilities and/or receiving water quality standards.” EPA Guidance Document – *Introduction to the National Pretreatment Program, February 1999*

Local limit considerations can be broken down into several categories consisting of: sewer use ordinances, state level local limits, POTW NPDES limits, water quality standards, and POTW inhibition.

3.2 Conventional Pollutants

Pollutants of Concern	Basis
pH	<u>Local Limit</u> The Soperton Sewer Use Ordinance establishes an allowable range of 6.0-8.5 s.u. The allowable range of 6.0-8.5 s.u. has been included in the pretreatment permit.
	<u>Categorical Limit</u> There is no applicable federally based categorical limit.
5-Day Biochemical Oxygen Demand	<u>Local Limit</u> The Soperton Sewer Use Ordinance establishes a maximum of 200.0 mg/L for BOD ₅ . A daily maximum of 200.0 mg/L has been included in the pretreatment permit.
	<u>Categorical Limit</u> There is no applicable federally based categorical limit.
Total Suspended Solids	<u>Local Limit</u> The Soperton Sewer Use Ordinance establishes a maximum of 350 mg/L for total suspended solids. A daily maximum of 350 mg/L has been included in the pretreatment permit.
	<u>Categorical Limit</u> There is no applicable federally based categorical limit.
Oil and Grease	<u>Local Limit</u> The Soperton Sewer Use Ordinance establishes a maximum of 7.0 mg/L for oil and grease. A daily maximum of 7.0 mg/L has been included in the pretreatment permit.
	<u>Categorical Limit</u> There is no applicable federally based categorical limit.

FACT SHEET

3.3 Nonconventional Pollutants

Pollutants of Concern	Basis
Ammonia	<u>Local Limit</u> The Soperton Sewer Use Ordinance establishes a maximum of 25.0 mg/L for ammonia. A daily maximum of 25.0 mg/L has been included in the pretreatment permit.
	<u>Categorical Limit</u> There is no applicable federally based categorical limit.
Total Nitrogen	<u>Local Limit</u> The Soperton Sewer Use Ordinance establishes a maximum of 47.0 mg/L for total nitrogen. A daily maximum of 47.0 mg/L has been included in the pretreatment permit.
	<u>Categorical Limit</u> There is no applicable federally based categorical limit.

3.4 Toxics & Manmade Organic Compounds (126 priority pollutants and metals)

Pollutants of Concern	Basis
Nickel, Total	<u>Local Limit</u> The Soperton Sewer Use Ordinance does not establish numerical limits for nickel. The local limits evaluation indicated an allowable concentration of 0.06 mg/L for nickel. Effluent limits of 0.06 mg/L daily average and 0.06 mg/L daily maximum have been included in the pretreatment permit. Mass based effluent limitations of 0.050 lbs/day daily average and daily maximum have been derived from the concentration-based effluent limitations and included in the permit. The daily average and daily maximum mass-based effluent limitations were translated based on a daily average and daily maximum permitted flow of 0.1 MGD.
	<u>Categorical Limit</u> There is no applicable federally based categorical limit.

FACT SHEET

Selenium, Total	<p><u>Local Limit</u> The Soperton Sewer Use Ordinance does not establish numerical limits for selenium. The local limits evaluation indicated an allowable concentration of 0.04 mg/L for selenium. Effluent limits of 0.04 mg/L daily average and 0.04 mg/L daily maximum have been included in the pretreatment permit. Mass based effluent limitations of 0.033 lbs/day daily average and daily maximum have been derived from the concentration-based effluent limitations and included in the permit. The daily average and daily maximum mass-based effluent limitations were translated based on a daily average and daily maximum permitted flow of 0.1 MGD.</p>
	<p><u>Categorical Limit</u> There is no applicable federally based categorical limit.</p>
Zinc, Total	<p><u>Local Limit</u> The Soperton Sewer Use Ordinance does not establish numerical limits for zinc. The local limits evaluation indicated an allowable concentration of 0.68 mg/L for zinc. Effluent limits of 0.68 mg/L daily average and 0.68 mg/L daily maximum have been included in the pretreatment permit. Mass based effluent limitations of 0.567 lbs/day daily average and daily maximum have been derived from the concentration-based effluent limitations and included in the permit. The daily average and daily maximum mass-based effluent limitations were translated based on a daily average and daily maximum permitted flow of 0.1 MGD.</p>
	<p><u>Categorical Limit</u> There is no applicable federally based categorical limit.</p>

3.5 Comparison and Summary of Limits

The highlighted limits shown below indicate the most stringent allowable limits for the permit based on all pretreatment standards.

Pollutant	Categorical ¹	SUO	Sludge Regulations ²	POTW NPDES-Based Limit	WQS ³ (acute & chronic)	POTW ⁴ Inhibition	Current Permit Limits
BOD₅	N/A	200.0 mg/L	N/A	516.4 mg/L	N/A	N/A	54 mg/L
TSS	N/A	350 mg/L	N/A	717.9 mg/L	N/A	N/A	350 mg/L
Oil & Grease	N/A	7.0 mg/L	N/A	N/A	N/A	N/A	7.0 mg/L
Ammonia	N/A	25.0 mg/L	N/A	30.0 mg/L	N/A	1,658.1 mg/L	25 mg/L
Total Nitrogen	N/A	47.0 mg/L	N/A	N/A	N/A	N/A	47 mg/L
Nickel	N/A	N/A	N/A	N/A	0.06 mg/L	1.43 mg/L	N/A
Selenium	N/A	N/A	N/A	N/A	0.04 mg/L	N/A	N/A
Zinc	N/A	N/A	N/A	N/A	1.19 mg/L	0.68 mg/L	N/A
pH	N/A	6.0-8.5 s.u.	N/A	N/A	N/A	N/A	6.0-8.5 s.u.

¹ This facility does not have any applicable Federal Categorical Effluent Guidelines.

² The Soperton WPCP hauls its sludge to a landfill, hence sludge criteria don't apply.

³ There are no numerical water quality standards for the pollutants marked as N/A.

⁴ The POTW doesn't have activated sludge or nitrification inhibition if marked as N/A.

3.6 Example Limit Calculations

An example calculation for each standard that required consideration has been included below. Complete results can be found in Appendix B – Local Limits Evaluation.

3.6.a. NPDES Permit Limit Calculations

$$TSS\ AHL\left(\frac{lbs}{day}\right) = \frac{8.34 \times NPDES\ Limit\ \left(\frac{mg}{L}\right) \times POTW\ Flow(MGD)}{1 - \frac{POTW\ Removal\ Efficiency(\%)}{100}}$$

$$TSS\ AHL\left(\frac{lbs}{day}\right) = \frac{8.34 \times 45\ \left(\frac{mg}{L}\right) \times 0.506(MGD)}{1 - \frac{93\%}{100}}$$

$$TSS\ AHL\left(\frac{lbs}{day}\right) = 2,713$$

$$TSS\ Load\left(\frac{lbs}{day}\right) = AHL\left(\frac{lbs}{day}\right) \times \left(1 - \frac{Safety\ Factor(\%)}{100}\right) - Dom.\ |Com.\ Load\left(\frac{lbs}{day}\right)$$

$$TSS\ Load\left(\frac{lbs}{day}\right) = 2,713\left(\frac{lbs}{day}\right) \times \left(1 - \frac{10\%}{100}\right) - 1,405\left(\frac{lbs}{day}\right)$$

$$TSS\ Load\left(\frac{lbs}{day}\right) = 1,037$$

$$TSS\ Local\ Limit\left(\frac{mg}{L}\right) = \frac{Allowable\ Loading\left(\frac{lbs}{day}\right)}{8.34 \times IU\ Pollutant\ Flow(MGD)}$$

$$TSS\ Local\ Limit\left(\frac{mg}{L}\right) = \frac{1,037\left(\frac{lbs}{day}\right)}{8.34 \times 0.1(MGD)}$$

$$TSS\ Local\ Limit\left(\frac{mg}{L}\right) = 1,243\ (Not\ Most\ Stringent\ Value)$$

3.6.d. Acute Water Quality Standard Calculations

$$Zinc\ AHL\left(\frac{lbs}{day}\right) = \frac{8.34 \times \left[Acute\ WQS\left(\frac{mg}{L}\right) \times (POTW\ Flow(MGD) + 1Q10(MGD)) - \left(Upstream\ Conc.\left(\frac{mg}{L}\right) \times 1Q10(MGD)\right) \right]}{1 - \frac{POTW\ Removal\ Efficiency(\%)}{100}}$$

$$Zinc\ AHL\left(\frac{lbs}{day}\right) = \frac{8.34 \times \left[0.10927\left(\frac{mg}{L}\right) \times (0.405\ (MGD) + 0\ (MGD)) - \left(0\left(\frac{mg}{L}\right) \times 0\ (MGD)\right) \right]}{1 - \frac{79\%}{100}}$$

$$Zinc\ AHL\left(\frac{lbs}{day}\right) = 1.76$$

$$Zinc\ Load\left(\frac{lbs}{day}\right) = AHL\left(\frac{lbs}{day}\right) \times \left(1 - \frac{Safety\ Factor(\%)}{100}\right) - Dom.\ |Com.\ Load\left(\frac{lbs}{day}\right)$$

$$Zinc\ Load\left(\frac{lbs}{day}\right) = 1.76\left(\frac{lbs}{day}\right) \times \left(1 - \frac{10\%}{100}\right) - 0.59\left(\frac{lbs}{day}\right)$$

$$Zinc\ Load\left(\frac{lbs}{day}\right) = 0.99$$

$$\text{Zinc Local Limit} \left(\frac{\text{mg}}{\text{L}} \right) = \frac{\text{Allowable Loading} \left(\frac{\text{lbs}}{\text{day}} \right)}{8.34 \times \text{IU Pollutant Flow (MGD)}}$$

$$\text{Zinc Local Limit} \left(\frac{\text{mg}}{\text{L}} \right) = \frac{0.99 \left(\frac{\text{lbs}}{\text{day}} \right)}{8.34 \times 0.1 \text{ (MGD)}}$$

$$\text{Zinc Local Limit} \left(\frac{\text{mg}}{\text{L}} \right) = 1.19 \text{ (Not Most Stringent Value)}$$

3.6.e. Chronic Water Quality Standard Calculations

$$\text{Zinc AHL} \left(\frac{\text{lbs}}{\text{day}} \right) = \frac{8.34 \times \left[\text{Chronic WQS} \left(\frac{\text{mg}}{\text{L}} \right) \times (\text{POTW Flow (MGD)} + 7\text{Q10 (MGD)}) - \left(\text{Upstream Conc.} \left(\frac{\text{mg}}{\text{L}} \right) \times 7\text{Q10 (MGD)} \right) \right]}{1 - \frac{\text{POTW Removal Efficiency (\%)}}{100}}$$

$$\text{Zinc AHL} \left(\frac{\text{lbs}}{\text{day}} \right) = \frac{8.34 \times \left[0.11016 \left(\frac{\text{mg}}{\text{L}} \right) \times (0.405 \text{ (MGD)} + 0 \text{ (MGD)}) - \left(0 \left(\frac{\text{mg}}{\text{L}} \right) \times 0 \text{ (MGD)} \right) \right]}{1 - \frac{79\%}{100}}$$

$$\text{Zinc AHL} \left(\frac{\text{lbs}}{\text{day}} \right) = 1.77$$

$$\text{Zinc Load} \left(\frac{\text{lbs}}{\text{day}} \right) = \text{AHL} \left(\frac{\text{lbs}}{\text{day}} \right) \times \left(1 - \frac{\text{Safety Factor (\%)}}{100} \right) - \text{Dom. | Com. Load} \left(\frac{\text{lbs}}{\text{day}} \right)$$

$$\text{Zinc Load} \left(\frac{\text{lbs}}{\text{day}} \right) = 1.77 \left(\frac{\text{lbs}}{\text{day}} \right) \times \left(1 - \frac{10\%}{100} \right) - 0.59 \left(\frac{\text{lbs}}{\text{day}} \right)$$

$$\text{Zinc Load} \left(\frac{\text{lbs}}{\text{day}} \right) = 1.0$$

$$\text{Zinc Local Limit} \left(\frac{\text{mg}}{\text{L}} \right) = \frac{\text{Allowable Loading} \left(\frac{\text{lbs}}{\text{day}} \right)}{8.34 \times \text{IU Pollutant Flow (MGD)}}$$

$$\text{Zinc Local Limit} \left(\frac{\text{mg}}{\text{L}} \right) = \frac{1.0 \left(\frac{\text{lbs}}{\text{day}} \right)}{8.34 \times 0.1 \text{ (MGD)}}$$

$$\text{Daily Zinc Local Limit} \left(\frac{\text{mg}}{\text{L}} \right) = 1.21 \text{ (Not Most Stringent Value)}$$

3.6.f. POTW Inhibition Calculations

$$Nickel\ AHL\left(\frac{lbs}{day}\right) = \frac{8.34 \times Inhibition\ Level\left(\frac{mg}{L}\right) \times POTW\ Flow(MGD)}{1 - \frac{POTW\ Removal\ Efficiency(\%)}{100}}$$

$$Nickel\ AHL\left(\frac{lbs}{day}\right) = \frac{8.34 \times 1.0\left(\frac{mg}{L}\right) \times 0.405(MGD)}{1 - \frac{14\%}{100}}$$

$$Nickel\ AHL\left(\frac{lbs}{day}\right) = 3.93$$

$$Nickel\left(\frac{lbs}{day}\right) = AHL\left(\frac{lbs}{day}\right) \times \left(1 - \frac{Safety\ Factor(\%)}{100}\right) - Dom.\ |Com.\ Load\left(\frac{lbs}{day}\right)$$

$$Nickel\ Load\left(\frac{lbs}{day}\right) = 3.93\left(\frac{lbs}{day}\right) \times \left(1 - \frac{10\%}{100}\right) - 0.12\left(\frac{lbs}{day}\right)$$

$$Nickel\ Load\left(\frac{lbs}{day}\right) = 3.42$$

$$Nickel\ Local\ Limit\left(\frac{mg}{L}\right) = \frac{Allowable\ Loading\left(\frac{lbs}{day}\right)}{8.34 \times IU\ Pollutant\ Flow(MGD)}$$

$$Nickel\ Local\ Limit\left(\frac{mg}{L}\right) = \frac{3.42\left(\frac{lbs}{day}\right)}{8.34 \times 0.1(MGD)}$$

$$Nickel\ Local\ Limit\left(\frac{mg}{L}\right) = 4.10\text{ (Not Most Stringent Value)}$$

4.0 OTHER PERMIT REQUIREMENTS AND CONSIDERATIONS

4.1 Anti-Backsliding

The limits in this permit are in compliance with the 40 C.F.R. 122.44(l), which requires a reissued permit to be as stringent as the previous permit.

5.0 REPORTING

The facility has been assigned to the following EPD office for reporting, compliance and enforcement.

FACT SHEET

Georgia Environmental Protection Division
East Central District (Augusta) Office
3525 Walton Way Ext.
Augusta, Georgia 30909

5.1 E-Reporting

The permittee is required to electronically submit documents in accordance with 40 CFR Part 127.

6.0 REQUESTED VARIANCES OR ALTERNATIVES TO REQUIRED STANDARDS

Not applicable

7.0 PERMIT EXPIRATION

The permit will expire five years from the effective date.

8.0 PROCEDURES FOR THE FORMULATION OF FINAL DETERMINATIONS

8.1 Comment Period

The Georgia Environmental Protection Division (EPD) proposes to issue a permit to this applicant subject to the effluent limitations and special conditions outlined above. These determinations are tentative.

Georgia Environmental Protection Division
Wastewater Regulatory Program
2 Martin Luther King Jr. Drive
Suite 1152 East
Atlanta, Georgia 30334

The permit application, draft permit, and other information are available for review at 2 Martin Luther King Jr. Drive, Suite 1152 East, Atlanta, Georgia 30334, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. For additional information, you can contact 404-463-1511.

8.2 Public Comments

Persons wishing to comment upon or object to the proposed determinations are invited to submit same in writing to the EPD address above, or via e-mail at EPDcomments@dnr.ga.gov within 30 days of the initiation of the public comment period. All comments received prior to that date will be considered in the formulation of final determinations regarding the application. The permit number should be placed on the top of the first page of comments to ensure that your comments will be forwarded to the appropriate staff.

8.3 Public Hearing

Any applicant, affected state or interstate agency, the Regional Administrator of the U.S. Environmental Protection Agency (EPA) or any other interested agency, person or group of persons may request a public hearing with respect to an NPDES permit application if such request is filed within thirty (30) days following the date of the public notice for such application. Such request must indicate the interest of the party filing the request, the reasons why a hearing is requested, and those specific portions of the application or other NPDES form or information to be considered at the public hearing.

The Director shall hold a hearing if he determines that there is sufficient public interest in holding such a hearing. If a public hearing is held, notice of same shall be provided at least thirty (30) days in advance of the hearing date.

In the event that a public hearing is held, both oral and written comments will be accepted; however, for the accuracy of the record, written comments are encouraged. The Director or a designee reserves the right to fix reasonable limits on the time allowed for oral statements and such other procedural requirements, as deemed appropriate.

Following a public hearing, the Director, unless it is decided to deny the permit, may make such modifications in the terms and conditions of the proposed permit as may be appropriate and shall issue the permit.

If no public hearing is held, and, after review of the written comments received, the Director determines that a permit should be issued and that the determinations as set forth in the proposed permit are substantially unchanged, the permit will be issued and will become final in the absence of a request for a contested hearing. Notice of issuance or denial will be made available to all interested persons and those persons that submitted written comments to the Director on the proposed permit.

If no public hearing is held, but the Director determines, after a review of the written comments received, that a permit should be issued but that substantial changes in the proposed permit are warranted, public notice of the revised determinations will be given and written comments accepted in the same manner as the initial notice of application was given and written comments accepted pursuant to EPD Rules, Water Quality Control, subparagraph 391-3-6-.08(7)(b). The Director shall provide an opportunity for public hearing on the revised determinations. Such opportunity for public hearing and the issuance or denial of a permit thereafter shall be in accordance with the procedures as are set forth above.

8.4 Final Determination

At the time that any final permit decision is made, the Director shall issue a response to comments. The issued permit and responses to comments can be found at the following address:

<http://epd.georgia.gov/watershed-protection-branch-permit-and-public-comments-clearinghouse-0>

8.5 Contested Hearings

Any person who is aggrieved or adversely affected by the issuance or denial of a permit by the Director of EPD may petition the Director for a hearing if such petition is filed in the office of the Director within thirty (30) days from the date of notice of such permit issuance or denial. Such hearing shall be held in accordance with the EPD Rules, Water Quality Control, subparagraph 391-3-6-.01.

Petitions for a contested hearing must include the following:

1. The name and address of the petitioner;
2. The grounds under which petitioner alleges to be aggrieved or adversely affected by the issuance or denial of a permit;
3. The reason or reasons why petitioner takes issue with the action of the Director;
4. All other matters asserted by petitioner which are relevant to the action in question.

APPENDIX A – Applicable Federal Regulations

ELECTRONIC CODE OF FEDERAL REGULATIONS

e-CFR data is current as of April 9, 2020

Title 40 → Chapter I → Subchapter N → Part 403

Title 40: Protection of Environment

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION**Contents**

§403.1 Purpose and applicability.
§403.2 Objectives of general pretreatment regulations.
§403.3 Definitions.
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AUTHORITY: 33 U.S.C. 1251 *et seq.*

SOURCE: 46 FR 9439, Jan. 28, 1981, unless otherwise noted.

 [Return arrow Back to Top](#)**§403.1 Purpose and applicability.**

(a) This part implements sections 204(b)(1)(C), 208(b)(2) (C)(iii), 301(b)(1)(A)(ii), 301(b)(2) (A)(ii), 301(h)(5) and 301(i)(2), 304 (e) and (g), 307, 308, 309, 402(b), 405, and 501(a) of the Federal Water Pollution Control Act as amended by the Clean Water Act of 1977 (Pub. L. 95-217) or "The Act". It establishes responsibilities of Federal, State, and local government, industry and the public to implement National Pretreatment Standards to control pollutants which pass through or interfere with treatment processes in Publicly Owned Treatment Works (POTWs) or which may contaminate sewage sludge.

(b) This regulation applies:

(1) To pollutants from non-domestic sources covered by Pretreatment Standards which are indirectly discharged into or transported by truck or rail or otherwise introduced into POTWs as defined below in §403.3;

(2) To POTWs which receive wastewater from sources subject to National Pretreatment Standards;

(3) To States which have or are applying for National Pollutant Discharge Elimination System (NPDES) programs approved in accordance with section 402 of the Act; and

(4) To any new or existing source subject to Pretreatment Standards. National Pretreatment Standards do not apply to sources which Discharge to a sewer which is not connected to a POTW Treatment Plant.

[46 FR 9439, Jan. 28, 1981, as amended at 48 FR 2776, Jan. 21, 1983; 60 FR 33932, June 29, 1995]

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§403.2 Objectives of general pretreatment regulations.

By establishing the responsibilities of government and industry to implement National Pretreatment Standards this regulation fulfills three objectives:

- (a) To prevent the introduction of pollutants into POTWs which will interfere with the operation of a POTW, including interference with its use or disposal of municipal sludge;
- (b) To prevent the introduction of pollutants into POTWs which will pass through the treatment works or otherwise be incompatible with such works; and
- (c) To improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.

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§403.3 Definitions.

For the purposes of this part:

(a) Except as discussed below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR part 401 shall apply to this regulation.

(b) The term *Act* means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, *et seq.*

(c) The term *Approval Authority* means the Director in an NPDES State with an approved State pretreatment program and the appropriate Regional Administrator in a non-NPDES State or NPDES State without an approved State pretreatment program.

(d) The term *Approved POTW Pretreatment Program or Program or POTW Pretreatment Program* means a program administered by a POTW that meets the criteria established in this regulation (§§403.8 and 403.9) and which has been approved by a Regional Administrator or State Director in accordance with §403.11 of this regulation.

(e) The term *Best Management Practices* or *BMPs* means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in §403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(f) The term *Control Authority* refers to:

(1) The POTW if the POTW's Pretreatment Program Submission has been approved in accordance with the requirements of §403.11; or

(2) The Approval Authority if the Submission has not been approved.

(g) The term *Director* means the chief administrative officer of a State or Interstate water pollution control agency with an NPDES permit program approved pursuant to section 402(b) of the Act and an approved State pretreatment program.

(h) The term *Water Management Division Director* means one of the Directors of the Water Management Divisions within the Regional offices of the Environmental Protection Agency or this person's delegated representative.

(i) The term *Indirect Discharge* or *Discharge* means the introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c) or (d) of the Act.

(j) The term *Industrial User* or *User* means a source of Indirect Discharge.

(k) The term *Interference* means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

(l) The term *National Pretreatment Standard*, *Pretreatment Standard*, or *Standard* means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307 (b) and (c) of the Act, which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to §403.5.

(m)(1) The term *New Source* means any building, structure, facility or installation from which there is or may be a Discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, *provided that*:

(i) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (m)(1)(ii) or (m)(1)(iii) of this section, but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(i) Begun, or caused to begin as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(n) The terms *NPDES Permit* or *Permit* means a permit issued to a POTW pursuant to section 402 of the Act.

(o) The term *NPDES State* means a State (as defined in 40 CFR 122.2) or Interstate water pollution control agency with an NPDES permit program approved pursuant to section 402(b) of the Act.

(p) The term *Pass Through* means a Discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

(q) The term *Publicly Owned Treatment Works* or *POTW* means a treatment works as defined by section 212 of the Act, which is owned by a State or municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works.

(r) The term *POTW Treatment Plant* means that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

(s) The term *Pretreatment* means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by §403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with §403.6(e).

(t) The term *Pretreatment requirements* means any substantive or procedural requirement related to Pretreatment, other than a National Pretreatment Standard, imposed on an Industrial User.

(u) The term *Regional Administrator* means the appropriate EPA Regional Administrator.

(v) *Significant Industrial User*. (1) Except as provided in paragraphs (v)(2) and (v)(3) of this section, the term Significant Industrial User means:

(i) All Industrial Users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and

(ii) Any other Industrial User that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW Treatment plant; or is designated as such by the Control Authority on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

(2) The Control Authority may determine that an Industrial User subject to categorical Pretreatment Standards under §403.6 and 40 CFR chapter I, subchapter N is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

(i) The Industrial User, prior to the Control Authority's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;

(ii) The Industrial User annually submits the certification statement required in §403.12(q) together with any additional information necessary to support the certification statement; and

(iii) The Industrial User never discharges any untreated concentrated wastewater.

(3) Upon a finding that an Industrial User meeting the criteria in paragraph (v)(1)(ii) of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or requirement, the Control Authority may at any time, on its own initiative or in response to a petition received from an Industrial User or POTW, and in accordance with 40 CFR 403.8(f)(6), determine that such Industrial User is not a Significant Industrial User.

(w) The term *Submission* means:

(1) A request by a POTW for approval of a Pretreatment Program to the EPA or a Director;

(2) A request by a POTW to the EPA or a Director for authority to revise the discharge limits in categorical Pretreatment Standards to reflect POTW pollutant removals; or

(3) A request to the EPA by an NPDES State for approval of its State pretreatment program.

[46 FR 9439, Jan. 28, 1981, as amended at 49 FR 5132, Feb. 10, 1984; 49 FR 28059, July 10, 1984; 51 FR 20430, June 4, 1986; 51 FR 23760, July 1, 1986; 52 FR 1600, Jan. 14, 1987; 53 FR 40610, Oct. 17, 1988; 55 FR 30129, July 24, 1990; 70 FR 60191, Oct. 14, 2005]

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§403.4 State or local law.

Nothing in this regulation is intended to affect any Pretreatment Requirements, including any standards or prohibitions, established by State or local law as long as the State or local requirements are not less stringent than any set forth in National Pretreatment Standards, or any other requirements or prohibitions established under the Act or this regulation. States with an

NPDES permit program approved in accordance with section 402 (b) and (c) of the Act, or States requesting NPDES programs, are responsible for developing a State pretreatment program in accordance with §403.10 of this regulation.

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§403.5 National pretreatment standards: Prohibited discharges.

(a)(1) *General prohibitions.* A User may not introduce into a POTW any pollutant(s) which cause Pass Through or Interference. These general prohibitions and the specific prohibitions in paragraph (b) of this section apply to each User introducing pollutants into a POTW whether or not the User is subject to other National Pretreatment Standards or any national, State, or local Pretreatment Requirements.

(2) *Affirmative Defenses.* A User shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in paragraph (a)(1) of this section and the specific prohibitions in paragraphs (b)(3), (b)(4), (b)(5), (b)(6), and (b)(7) of this section where the User can demonstrate that:

(i) It did not know or have reason to know that its Discharge, alone or in conjunction with a discharge or discharges from other sources, would cause Pass Through or Interference; and

(ii)(A) A local limit designed to prevent Pass Through and/or Interference, as the case may be, was developed in accordance with paragraph (c) of this section for each pollutant in the User's Discharge that caused Pass Through or Interference, and the User was in compliance with each such local limit directly prior to and during the Pass Through or Interference; or

(B) If a local limit designed to prevent Pass Through and/or Interference, as the case may be, has not been developed in accordance with paragraph (c) of this section for the pollutant(s) that caused the Pass Through or Interference, the User's Discharge directly prior to and during the Pass Through or Interference did not change substantially in nature or constituents from the User's prior discharge activity when the POTW was regularly in compliance with the POTW's NPDES permit requirements and, in the case of Interference, applicable requirements for sewage sludge use or disposal.

(b) *Specific prohibitions.* In addition, the following pollutants shall not be introduced into a POTW:

(1) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21;

(2) Pollutants which will cause corrosive structural damage to the POTW, but in no case Discharges with pH lower than 5.0, unless the works is specifically designed to accommodate such Discharges;

(3) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in Interference;

(4) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a Discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW.

(5) Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40 °C (104 °F) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits.

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;

(7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(8) Any trucked or hauled pollutants, except at discharge points designated by the POTW.

(c) *When specific limits must be developed by POTW.* (1) Each POTW developing a POTW Pretreatment Program pursuant to §403.8 shall develop and enforce specific limits to implement the prohibitions listed in paragraphs (a)(1) and (b) of this section. Each POTW with an approved pretreatment program shall continue to develop these limits as necessary and effectively enforce such limits.

(2) All other POTW's shall, in cases where pollutants contributed by User(s) result in Interference or Pass-Through, and such violation is likely to recur, develop and enforce specific effluent limits for Industrial User(s), and all other users, as appropriate, which, together with appropriate changes in the POTW Treatment Plant's facilities or operation, are necessary to ensure renewed and continued compliance with the POTW's NPDES permit or sludge use or disposal practices.

(3) Specific effluent limits shall not be developed and enforced without individual notice to persons or groups who have requested such notice and an opportunity to respond.

(4) POTWs may develop Best Management Practices (BMPs) to implement paragraphs (c)(1) and (c)(2) of this section. Such BMPs shall be considered local limits and Pretreatment Standards for the purposes of this part and section 307(d) of the Act.

(d) *Local limits.* Where specific prohibitions or limits on pollutants or pollutant parameters are developed by a POTW in accordance with paragraph (c) above, such limits shall be deemed Pretreatment Standards for the purposes of section 307(d) of the Act.

(e) EPA enforcement actions under section 309(f) of the Clean Water Act.

If, within 30 days after notice of an Interference or Pass Through violation has been sent by EPA to the POTW, and to persons or groups who have requested such notice, the POTW fails to commence appropriate enforcement action to correct the violation, EPA may take appropriate enforcement action under the authority provided in section 309(f) of the Clean Water Act.

[46 FR 9439, Jan. 28, 1981, as amended at 51 FR 20430, June 4, 1986; 52 FR 1600, Jan. 14, 1987; 55 FR 30129, July 24, 1990; 60 FR 33932, June 29, 1995; 70 FR 60192, Oct. 14, 2005]

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§403.6 National pretreatment standards: Categorical standards.

National pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged to a POTW by existing or new industrial users in specific industrial subcategories will be established as separate regulations under the appropriate subpart of 40 CFR chapter I, subchapter N. These standards, unless specifically noted otherwise, shall be in addition to all applicable pretreatment standards and requirements set forth in this part.

(a) *Category determination request—(1) Application deadline.* Within 60 days after the effective date of a Pretreatment Standard for a subcategory under which an Industrial User may be included, the Industrial User or POTW may request that the Water Management Division Director or Director, as appropriate, provide written certification on whether the Industrial User falls within that particular subcategory. If an existing Industrial User adds or changes a process or operation which may be included in a subcategory, the existing Industrial User must request this certification prior to commencing discharge from the added or changed processes or operation. A New Source must request this certification prior to commencing discharge. Where a request for certification is submitted by a POTW, the POTW shall notify any affected Industrial User of such submission. The Industrial User may provide written comments on the POTW submission to the Water Management Division Director or Director, as appropriate, within 30 days of notification.

(2) *Contents of application.* Each request shall contain a statement:

(i) Describing which subcategories might be applicable; and

(ii) Citing evidence and reasons why a particular subcategory is applicable and why others are not applicable. Any person signing the application statement submitted pursuant to this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(3) *Deficient requests.* The Water Management Division Director or Director will only act on written requests for determinations that contain all of the information required. Persons who have made incomplete submissions will be notified by the Water Management Division Director or Director that their requests are deficient and, unless the time period is extended, will be given 30 days to correct the deficiency. If the deficiency is not corrected within 30 days or within an extended period allowed by the Water Management Division Director or the Director, the request for a determination shall be denied.

(4) *Final decision.* (i) When the Water Management Division Director or Director receives a submittal he or she will, after determining that it contains all of the information required by paragraph (2) of this section, consider the submission, any additional evidence that may have been requested, and any other available information relevant to the request. The Water Management Division Director or Director will then make a written determination of the applicable subcategory and state the reasons for the determination.

(ii) Where the request is submitted to the Director, the Director shall forward the determination described in this paragraph to the Water Management Division Director who may make a final determination. The Water Management Division Director may waive receipt of these determinations. If the Water Management Division Director does not modify the Director's decision within

60 days after receipt thereof, or if the Water Management Division Director waives receipt of the determination, the Director's decision is final.

(iii) Where the request is submitted by the Industrial User or POTW to the Water Management Division Director or where the Water Management Division Director elects to modify the Director's decision, the Water Management Division Director's decision will be final.

(iv) The Water Management Division Director or Director, as appropriate, shall send a copy of the determination to the affected Industrial User and the POTW. Where the final determination is made by the Water Management Division Director, he or she shall send a copy of the determination to the Director.

(5) *Requests for hearing and/or legal decision.* Within 30 days following the date of receipt of notice of the final determination as provided for by paragraph (a)(4)(iv) of this section, the Requester may submit a petition to reconsider or contest the decision to the Regional Administrator who shall act on such petition expeditiously and state the reasons for his or her determination in writing.

(b) *Deadline for compliance with categorical standards.* Compliance by existing sources with categorical Pretreatment Standards shall be within 3 years of the date the Standard is effective unless a shorter compliance time is specified in the appropriate subpart of 40 CFR chapter I, subchapter N. Direct dischargers with NPDES Permits modified or reissued to provide a variance pursuant to section 301(i)(2) of the Act shall be required to meet compliance dates set in any applicable categorical Pretreatment Standard. Existing sources which become Industrial Users subsequent to promulgation of an applicable categorical Pretreatment Standard shall be considered existing Industrial Users except where such sources meet the definition of a New Source as defined in §403.3(m). New Sources shall install and have in operating condition, and shall "start-up" all pollution control equipment required to meet applicable Pretreatment Standards before beginning to Discharge. Within the shortest feasible time (not to exceed 90 days), New Sources must meet all applicable Pretreatment Standards.

(c)(1) *Concentration and mass limits.* Pollutant discharge limits in categorical Pretreatment Standards will be expressed either as concentration or mass limits. Wherever possible, where concentration limits are specified in standards, equivalent mass limits will be provided so that local, State or Federal authorities responsible for enforcement may use either concentration or mass limits. Limits in categorical Pretreatment Standards shall apply to the effluent of the process regulated by the Standard, or as otherwise specified by the standard.

(2) When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Control Authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.

(3) A Control Authority calculating equivalent mass-per-day limitations under paragraph (c)(2) of this section shall calculate such limitations by multiplying the limits in the Standard by the Industrial User's average rate of production. This average rate of production shall be based not upon the designed production capacity but rather upon a reasonable measure of the Industrial User's actual long-term daily production, such as the average daily production during a representative year. For new sources, actual production shall be estimated using projected production.

(4) A Control Authority calculating equivalent concentration limitations under paragraph (c)(2) of this section shall calculate such limitations by dividing the mass limitations derived under paragraph (c)(3) of this section by the average daily flow rate of the Industrial User's regulated process wastewater. This average daily flow rate shall be based upon a reasonable measure of the Industrial User's actual long-term average flow rate, such as the average daily flow rate during the representative year.

(5) When the limits in a categorical Pretreatment Standard are expressed only in terms of pollutant concentrations, an Industrial User may request that the Control Authority convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Control Authority. The Control Authority may establish equivalent mass limits only if the Industrial User meets all the following conditions in paragraph (c)(5)(i)(A) through (c)(5)(i)(E) of this section.

(i) To be eligible for equivalent mass limits, the Industrial User must:

(A) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its control mechanism;

(B) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;

(C) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the

actual average daily flow rate and long-term average production rate must be representative of current operating conditions;

(D) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and

(E) Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.

(ii) An Industrial User subject to equivalent mass limits must:

(A) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

(B) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;

(C) Continue to record the facility's production rates and notify the Control Authority whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph (c)(5)(i)(C) of this section. Upon notification of a revised production rate, the Control Authority must reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

(D) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraph (c)(5)(i)(A) of this section so long as it discharges under an equivalent mass limit.

(iii) A Control Authority which chooses to establish equivalent mass limits:

(A) Must calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based daily maximum and monthly average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;

(B) Upon notification of a revised production rate, must reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

(C) May retain the same equivalent mass limit in subsequent control mechanism terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to paragraph (d) of this section. The Industrial User must also be in compliance with §403.17 (regarding the prohibition of bypass).

(iv) The Control Authority may not express limits in terms of mass for pollutants such as pH, temperature, radiation, or other pollutants which cannot appropriately be expressed as mass.

(6) The Control Authority may convert the mass limits of the categorical Pretreatment Standards at 40 CFR parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users under the following conditions. When converting such limits to concentration limits, the Control Authority must use the concentrations listed in the applicable subparts of 40 CFR parts 414, 419, and 455 and document that dilution is not being substituted for treatment as prohibited by paragraph (d) of this section.

(7) Equivalent limitations calculated in accordance with paragraphs (c)(3), (c)(4), (c)(5) and (c)(6) of this section are deemed Pretreatment Standards for the purposes of section 307(d) of the Act and this part. The Control Authority must document how the equivalent limits were derived and make this information publicly available. Once incorporated into its control mechanism, the Industrial User must comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

(8) Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

(9) Any Industrial User operating under a control mechanism incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the Control Authority within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Control Authority of such anticipated change will be required to meet the mass or concentration limits in its control mechanism that were based on the original estimate of the long term average production rate.

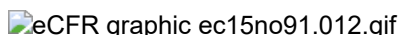
(d) *Dilution prohibited as substitute for treatment.* Except where expressly authorized to do so by an applicable Pretreatment Standard or Requirement, no Industrial User shall ever increase the use of process water, or in any other way

attempt to dilute a Discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Standard or Requirement. The Control Authority may impose mass limitations on Industrial Users which are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases where the imposition of mass limitations is appropriate.

(e) *Combined wastestream formula.* Where process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative discharge limits may be derived by the Control Authority or by the Industrial User with the written concurrence of the Control Authority. These alternative limits shall be applied to the mixed effluent. When deriving alternative categorical limits, the Control Authority or Industrial User shall calculate both an alternative daily maximum value using the daily maximum value(s) specified in the appropriate categorical Pretreatment Standard(s) and an alternative consecutive sampling day average value using the monthly average value(s) specified in the appropriate categorical Pretreatment Standard(s). The Industrial User shall comply with the alternative daily maximum and monthly average limits fixed by the Control Authority until the Control Authority modifies the limits or approves an Industrial User modification request. Modification is authorized whenever there is a material or significant change in the values used in the calculation to fix alternative limits for the regulated pollutant. An Industrial User must immediately report any such material or significant change to the Control Authority. Where appropriate new alternative categorical limits shall be calculated within 30 days.

(1) *Alternative limit calculation.* For purposes of these formulas, the “average daily flow” means a reasonable measure of the average daily flow for a 30-day period. For new sources, flows shall be estimated using projected values. The alternative limit for a specified pollutant will be derived by the use of either of the following formulas:

(i) *Alternative concentration limit.*

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where

C_T = the alternative concentration limit for the combined wastestream.

C_i = the categorical Pretreatment Standard concentration limit for a pollutant in the regulated stream i .

F_i = the average daily flow (at least a 30-day average) of stream i to the extent that it is regulated for such pollutant.

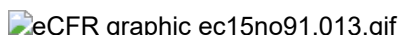
F_D = the average daily flow (at least a 30-day average) from: (a) Boiler blowdown streams, non-contact cooling streams, stormwater streams, and demineralizer backwash streams; provided, however, that where such streams contain a significant amount of a pollutant, and the combination of such streams, prior to treatment, with an Industrial User's regulated process wastestream(s) will result in a substantial reduction of that pollutant, the Control Authority, upon application of the Industrial User, may exercise its discretion to determine whether such stream(s) should be classified as diluted or unregulated. In its application to the Control Authority, the Industrial User must provide engineering, production, sampling and analysis and such other information so that the Control Authority can make its determination; or (b) sanitary wastestreams where such streams are not regulated by a Categorical Pretreatment Standard; or (c) from any process wastestreams which were or could have been entirely exempted from categorical Pretreatment Standards pursuant to paragraph 8 of the *NRDC v. Costle* Consent Decree (12 ERC 1833) for one or more of the following reasons (see appendix D of this part):

- (1) The pollutants of concern are not detectable in the effluent from the Industrial User (paragraph (8)(a)(iii));
- (2) The pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects (paragraph (8)(a)(iii));
- (3) The pollutants of concern are present in amounts too small to be effectively reduced by technologies known to the Administrator (paragraph (8)(a)(iii)); or
- (4) The wastestream contains only pollutants which are compatible with the POTW (paragraph (8)(b)(i)).

F_T = The average daily flow (at least a 30-day average) through the combined treatment facility (includes F_i , F_D and unregulated streams).

N = The total number of regulated streams.

(ii) *Alternative mass limit.*

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where

M_T = the alternative mass limit for a pollutant in the combined wastestream.

M_i = the categorical Pretreatment Standard mass limit for a pollutant in the regulated stream i (the categorical pretreatment mass limit multiplied by the appropriate measure of production).

F_i = the average flow (at least a 30-day average) of stream i to the extent that it is regulated for such pollutant.

F_D = the average daily flow (at least a 30-day average) from: (a) Boiler blowdown streams, non-contact cooling streams, stormwater streams, and demineralizer backwash streams; provided, however, that where such streams contain a significant amount of a pollutant, and the combination of such streams, prior to treatment, with an Industrial User's regulated process wastestream(s) will result in a substantial reduction of that pollutant, the Control Authority, upon application of the Industrial User, may exercise its discretion to determine whether such stream(s) should be classified as diluted or unregulated. In its application to the Control Authority, the Industrial User must provide engineering, production, sampling and analysis and such other information so that the Control Authority can make its determination; or (b) sanitary wastestreams where such streams are not regulated by a categorical Pretreatment Standard; or (c) from any process wastestreams which were or could have been entirely exempted from categorical Pretreatment Standards pursuant to paragraph 8 of the *NRDC v. Costle* Consent Decree (12 ERC 1833) for one or more of the following reasons (see appendix D of this part):

- (1) The pollutants of concern are not detectable in the effluent from the Industrial User (paragraph (8)(a)(iii));
- (2) The pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects (paragraph (8)(a)(iii));
- (3) The pollutants of concern are present in amounts too small to be effectively reduced by technologies known to the Administrator (paragraph (8)(a)(iii)); or
- (4) The wastestream contains only pollutants which are compatible with the POTW (paragraph (8)(b)(i)).

F_T = The average flow (at least a 30-day average) through the combined treatment facility (includes F_i , F_D and unregulated streams).

N = The total number of regulated streams.

(2) *Alternate limits below detection limit.* An alternative pretreatment limit may not be used if the alternative limit is below the analytical detection limit for any of the regulated pollutants.

(3) *Self-monitoring.* Self-monitoring required to insure compliance with the alternative categorical limit shall be conducted in accordance with the requirements of §403.12(g).

(4) *Choice of monitoring location.* Where a treated regulated process wastestream is combined prior to treatment with wastewaters other than those generated by the regulated process, the Industrial User may monitor either the segregated process wastestream or the combined wastestream for the purpose of determining compliance with applicable Pretreatment Standards. If the Industrial User chooses to monitor the segregated process wastestream, it shall apply the applicable categorical Pretreatment Standard. If the User chooses to monitor the combined wastestream, it shall apply an alternative discharge limit calculated using the combined wastestream formula as provided in this section. The Industrial User may change monitoring points only after receiving approval from the Control Authority. The Control Authority shall ensure that any change in an Industrial User's monitoring point(s) will not allow the User to substitute dilution for adequate treatment to achieve compliance with applicable Standards.

[46 FR 9439, Jan. 28, 1981, as amended at 49 FR 21037, May 17, 1984; 49 FR 31224, Aug. 3, 1984; 51 FR 20430, June 4, 1986; 51 FR 23760, July 1, 1986; 53 FR 40610, Oct. 17, 1988; 55 FR 30129, July 24, 1990; 58 FR 18017, Apr. 7, 1993; 70 FR 60192, Oct. 14, 2005]

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§403.7 Removal credits.

(a) *Introduction—(1) Definitions.* For the purpose of this section:

(i) *Removal* means a reduction in the amount of a pollutant in the POTW's effluent or alteration of the nature of a pollutant during treatment at the POTW. The reduction or alteration can be obtained by physical, chemical or biological means and may be the result of specifically designed POTW capabilities or may be incidental to the operation of the treatment system. Removal as used in this subpart shall not mean dilution of a pollutant in the POTW.

(ii) *Sludge requirements* shall mean the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA) (including title II more commonly referred to as the Resource Conservation Recovery Act (RCRA) and State regulations contained in any State sludge management plan prepared pursuant to subtitle D of SWDA); the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

(2) *General.* Any POTW receiving wastes from an Industrial User to which a categorical Pretreatment Standard(s) applies may, at its discretion and subject to the conditions of this section, grant removal credits to reflect removal by the POTW of pollutants specified in the categorical Pretreatment Standard(s). The POTW may grant a removal credit equal to or, at its discretion, less than its consistent removal rate. Upon being granted a removal credit, each affected Industrial User shall calculate its revised discharge limits in accordance with paragraph (a)(4) of this section. Removal credits may only be given for indicator or surrogate pollutants regulated in a categorical Pretreatment Standard if the categorical Pretreatment Standard so specifies.

(3) *Conditions for authorization to give removal credits.* A POTW is authorized to give removal credits only if the following conditions are met:

(i) *Application.* The POTW applies for, and receives, authorization from the Approval Authority to give a removal credit in accordance with the requirements and procedures specified in paragraph (e) of this section.

(ii) *Consistent removal determination.* The POTW demonstrates and continues to achieve consistent removal of the pollutant in accordance with paragraph (b) of this section.

(iii) *POTW local pretreatment program.* The POTW has an approved pretreatment program in accordance with and to the extent required by part 403; provided, however, a POTW which does not have an approved pretreatment program may, pending approval of such a program, conditionally give credits as provided in paragraph (d) of this section.

(iv) *Sludge requirements.* The granting of removal credits will not cause the POTW to violate the local, State and Federal Sludge Requirements which apply to the sludge management method chosen by the POTW. Alternatively, the POTW can demonstrate to the Approval Authority that even though it is not presently in compliance with applicable Sludge Requirements, it will be in compliance when the Industrial User(s) to whom the removal credit would apply is required to meet its categorical Pretreatment Standard(s) as modified by the removal credit. If granting removal credits forces a POTW to incur greater sludge management costs than would be incurred in the absence of granting removal credits, the additional sludge management costs will not be eligible for EPA grant assistance. Removal credits may be made available for the following pollutants.

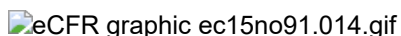
(A) For any pollutant listed in appendix G section I of this part for the use or disposal practice employed by the POTW, when the requirements in 40 CFR part 503 for that practice are met.

(B) For any pollutant listed in appendix G section II of this part for the use or disposal practice employed by the POTW when the concentration for a pollutant listed in appendix G section II of this part in the sewage sludge that is used or disposed does not exceed the concentration for the pollutant in appendix G section II of this part.

(C) For any pollutant in sewage sludge when the POTW disposes all of its sewage sludge in a municipal solid waste landfill unit that meets the criteria in 40 CFR part 258.

(v) *NPDES permit limitations.* The granting of removal credits will not cause a violation of the POTW's permit limitations or conditions. Alternatively, the POTW can demonstrate to the Approval Authority that even though it is not presently in compliance with applicable limitations and conditions in its NPDES permit, it will be in compliance when the Industrial User(s) to whom the removal credit would apply is required to meet its categorical Pretreatment Standard(s), as modified by the removal credit provision.

(4) *Calculation of revised discharge limits.* Revised discharge limits for a specific pollutant shall be derived by use of the following formula:

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where:

x = pollutant discharge limit specified in the applicable categorical Pretreatment Standard

r = removal credit for that pollutant as established under paragraph (b) of this section (percentage removal expressed as a proportion, *i.e.*, a number between 0 and 1)

y = revised discharge limit for the specified pollutant (expressed in same units as x)

(b) *Establishment of removal credits; demonstration of Consistent Removal—(1) Definition of Consistent Removal.*

“Consistent Removal” shall mean the average of the lowest 50 percent of the removal measured according to paragraph (b)(2) of this section. All sample data obtained for the measured pollutant during the time period prescribed in paragraph (b)(2) of this section must be reported and used in computing Consistent Removal. If a substance is measurable in the influent but not in the effluent, the effluent level may be assumed to be the limit of measurement, and those data may be used by the POTW at its discretion and subject to approval by the Approval Authority. If the substance is not measurable in the influent, the data may not be used. Where the number of samples with concentrations equal to or above the limit of measurement is between 8 and 12, the average of the lowest 6 removals shall be used. If there are less than 8 samples with concentrations equal to or above the limit of measurement, the Approval Authority may approve alternate means for demonstrating Consistent Removal. The term “measurement” refers to the ability of the analytical method or protocol to quantify as well as identify the presence of the substance in question.

(2) *Consistent Removal data.* Influent and effluent operational data demonstrating Consistent Removal or other information, as provided for in paragraph (b)(1) of this section, which demonstrates Consistent Removal of the pollutants for which discharge limit revisions are proposed. This data shall meet the following requirements:

(i) *Representative data; seasonal.* The data shall be representative of yearly and seasonal conditions to which the POTW is subjected for each pollutant for which a discharge limit revision is proposed.

(ii) *Representative data; quality and quantity.* The data shall be representative of the quality and quantity of normal effluent and influent flow if such data can be obtained. If such data are unobtainable, alternate data or information may be presented for approval to demonstrate Consistent Removal as provided for in paragraph (b)(1) of this section.

(iii) *Sampling procedures: Composite.* (A) The influent and effluent operational data shall be obtained through 24-hour flow-proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. For discrete sampling, at least 12 aliquots shall be composited. Discrete sampling may be flow-proportioned either by varying the time interval between each aliquot or the volume of each aliquot. All composites must be flow-proportional to each stream flow at time of collection of influent aliquot or to the total influent flow since the previous influent aliquot. Volatile pollutant aliquots must be combined in the laboratory immediately before analysis.

(B)(1) Twelve samples shall be taken at approximately equal intervals throughout one full year. Sampling must be evenly distributed over the days of the week so as to include no-workdays as well as workdays. If the Approval Authority determines that this schedule will not be most representative of the actual operation of the POTW Treatment Plant, an alternative sampling schedule will be approved.

(2) In addition, upon the Approval Authority's concurrence, a POTW may utilize an historical data base amassed prior to the effective date of this section provide that such data otherwise meet the requirements of this paragraph. In order for the historical data base to be approved it must present a statistically valid description of daily, weekly and seasonal sewage treatment plant loadings and performance for at least one year.

(C) Effluent sample collection need not be delayed to compensate for hydraulic detention unless the POTW elects to include detention time compensation or unless the Approval Authority requires detention time compensation. The Approval Authority may require that each effluent sample be taken approximately one detention time later than the corresponding influent sample when failure to do so would result in an unrepresentative portrayal of actual POTW operation. The detention period is to be based on a 24-hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year.

(iv) *Sampling procedures: Grab.* Where composite sampling is not an appropriate sampling technique, a grab sample(s) shall be taken to obtain influent and effluent operational data. Collection of influent grab samples should precede collection of effluent samples by approximately one detention period. The detention period is to be based on a 24-hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year. Grab samples will be required, for example, where the parameters being evaluated are those, such as cyanide and phenol, which may not be held for any extended period because of biological, chemical or physical interactions which take place after sample collection and affect the results. A grab sample is an individual sample collected over a period of time not exceeding 15 minutes.

(v) *Analytical methods.* The sampling referred to in paragraphs (b)(2) (i) through (iv) of this section and an analysis of these samples shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Administrator determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the Administrator.

(vi) *Calculation of removal.* All data acquired under the provisions of this section must be submitted to the Approval Authority. Removal for a specific pollutant shall be determined either, for each sample, by measuring the difference between the concentrations of the pollutant in the influent and effluent of the POTW and expressing the difference as a percent of the influent concentration, or, where such data cannot be obtained, Removal may be demonstrated using other data or procedures subject to concurrence by the Approval Authority as provided for in paragraph (b)(1) of this section.

(c) *Provisional credits.* For pollutants which are not being discharged currently (*i.e.*, new or modified facilities, or production changes) the POTW may apply for authorization to give removal credits prior to the initial discharge of the pollutant. Consistent removal shall be based provisionally on data from treatability studies or demonstrated removal at other treatment facilities where the quality and quantity of influent are similar. Within 18 months after the commencement of discharge of pollutants in question, consistent removal must be demonstrated pursuant to the requirements of paragraph (b) of this section. If, within 18 months after the commencement of the discharge of the pollutant in question, the POTW cannot demonstrate consistent removal pursuant to the requirements of paragraph (b) of this section, the authority to grant provisional removal credits shall be terminated by the Approval Authority and all Industrial Users to whom the revised discharge limits had been applied shall achieve compliance with the applicable categorical Pretreatment Standard(s) within a reasonable time, not to exceed the period of time prescribed in the applicable categorical Pretreatment Standard(s), as may be specified by the Approval Authority.

(d) *Exception to POTW Pretreatment Program Requirement.* A POTW required to develop a local pretreatment program by §403.8 may conditionally give removal credits pending approval of such a program in accordance with the following terms and conditions:

(1) All Industrial Users who are currently subject to a categorical Pretreatment Standard and who wish conditionally to receive a removal credit must submit to the POTW the information required in §403.12(b)(1) through (7) (except new or modified industrial users must only submit the information required by §403.12(b)(1) through (6)), pertaining to the categorical Pretreatment Standard as modified by the removal credit. The Industrial Users shall indicate what additional technology, if any, will be needed to comply with the categorical Pretreatment Standard(s) as modified by the removal credit;

(2) The POTW must have submitted to the Approval Authority an application for pretreatment program approval meeting the requirements of §§403.8 and 403.9 in a timely manner, not to exceed the time limitation set forth in a compliance schedule for development of a pretreatment program included in the POTW's NPDES permit, but in no case later than July 1, 1983, where no permit deadline exists;

(3) The POTW must:

(i) Compile and submit data demonstrating its consistent removal in accordance with paragraph (b) of this section;

(ii) Comply with the conditions specified in paragraph (a)(3) of this section; and

(iii) Submit a complete application for removal credit authority in accordance with paragraph (e) of this section;

(4) If a POTW receives authority to grant conditional removal credits and the Approval Authority subsequently makes a final determination, after appropriate notice, that the POTW failed to comply with the conditions in paragraphs (d)(2) and (3) of this section, the authority to grant conditional removal credits shall be terminated by the Approval Authority and all Industrial Users to whom the revised discharge limits had been applied shall achieve compliance with the applicable categorical Pretreatment Standard(s) within a reasonable time, not to exceed the period of time prescribed in the applicable categorical Pretreatment Standard(s), as may be specified by the Approval Authority.

(5) If a POTW grants conditional removal credits and the POTW or the Approval Authority subsequently makes a final determination, after appropriate notice, that the Industrial User(s) failed to comply with the conditions in paragraph (d)(1) of this section, the conditional credit shall be terminated by the POTW or the Approval Authority for the non-complying Industrial User(s) and the Industrial User(s) to whom the revised discharge limits had been applied shall achieve compliance with the applicable categorical Pretreatment Standard(s) within a reasonable time, not to exceed the period of time prescribed in the applicable categorical Pretreatment Standard(s), as may be specified by the Approval Authority. The conditional credit shall not be terminated where a violation of the provisions of this paragraph results from causes entirely outside of the control of the Industrial User(s) or the Industrial User(s) had demonstrated substantial compliance.

(6) The Approval Authority may elect not to review an application for conditional removal credit authority upon receipt of such application, in which case the conditionally revised discharge limits will remain in effect until reviewed by the Approval Authority. This review may occur at any time in accordance with the procedures of §403.11, but in no event later than the time of any pretreatment program approval or any NPDES permit reissuance thereunder.

(e) *POTW application for authorization to give removal credits and Approval Authority review—*(1) *Who must apply.* Any POTW that wants to give a removal credit must apply for authorization from the Approval Authority.

(2) *To whom application is made.* An application for authorization to give removal credits (or modify existing ones) shall be submitted by the POTW to the Approval Authority.

(3) *When to apply.* A POTW may apply for authorization to give or modify removal credits at any time.

(4) *Contents of the application.* An application for authorization to give removal credits must be supported by the following information:

(i) *List of pollutants.* A list of pollutants for which removal credits are proposed.

(ii) *Consistent Removal data.* The data required pursuant to paragraph (b) of this section.

(iii) *Calculation of revised discharge limits.* Proposed revised discharge limits for each affected subcategory of Industrial Users calculated in accordance with paragraph (a)(4) of this section.

(iv) *Local Pretreatment Program Certification.* A certification that the POTW has an approved local pretreatment program or qualifies for the exception to this requirement found at paragraph (d) of this section.

(v) *Sludge management certification.* A specific description of the POTW's current methods of using or disposing of its sludge and a certification that the granting of removal credits will not cause a violation of the sludge requirements identified in paragraph (a)(3)(iv) of this section.

(vi) *NPDES permit limit certification.* A certification that the granting of removal credits will not cause a violation of the POTW's NPDES permit limits and conditions as required in paragraph (a)(3)(v) of this section.

(5) *Approval Authority review.* The Approval Authority shall review the POTW's application for authorization to give or modify removal credits in accordance with the procedures of §403.11 and shall, in no event, have more than 180 days from public notice of an application to complete review.

(6) *EPA review of State removal credit approvals.* Where the NPDES State has an approved pretreatment program, the Regional Administrator may agree in the Memorandum of Agreement under 40 CFR 123.24(d) to waive the right to review and object to submissions for authority to grant removal credits. Such an agreement shall not restrict the Regional Administrator's right to comment upon or object to permits issued to POTW's except to the extent 40 CFR 123.24(d) allows such restriction.

(7) Nothing in these regulations precludes an Industrial User or other interested party from assisting the POTW in preparing and presenting the information necessary to apply for authorization.

(f) *Continuation and withdrawal of authorization—(1) Effect of authorization.* (i) Once a POTW has received authorization to grant removal credits for a particular pollutant regulated in a categorical Pretreatment Standard it may automatically extend that removal credit to the same pollutant when it is regulated in other categorical standards, unless granting the removal credit will cause the POTW to violate the sludge requirements identified in paragraph (a)(3)(iv) of this section or its NPDES permit limits and conditions as required by paragraph (a)(3)(v) of this section. If a POTW elects at a later time to extend removal credits to a certain categorical Pretreatment Standard, industrial subcategory or one or more Industrial Users that initially were not granted removal credits, it must notify the Approval Authority.

(2) *Inclusion in POTW permit.* Once authority is granted, the removal credits shall be included in the POTW's NPDES Permit as soon as possible and shall become an enforceable requirement of the POTW's NPDES permit. The removal credits will remain in effect for the term of the POTW's NPDES permit, provided the POTW maintains compliance with the conditions specified in paragraph (f)(4) of this section.

(3) *Compliance monitoring.* Following authorization to give removal credits, a POTW shall continue to monitor and report on (at such intervals as may be specified by the Approval Authority, but in no case less than once per year) the POTW's removal capabilities. A minimum of one representative sample per month during the reporting period is required, and all sampling data must be included in the POTW's compliance report.

(4) *Modification or withdrawal of removal credits—(i) Notice of POTW.* The Approval Authority shall notify the POTW if, on the basis of pollutant removal capability reports received pursuant to paragraph (f)(3) of this section or other relevant information available to it, the Approval Authority determines:

(A) That one or more of the discharge limit revisions made by the POTW, of the POTW itself, no longer meets the requirements of this section, or

(B) That such discharge limit revisions are causing a violation of any conditions or limits contained in the POTW's NPDES Permit.

(ii) *Corrective action.* If appropriate corrective action is not taken within a reasonable time, not to exceed 60 days unless the POTW or the affected Industrial Users demonstrate that a longer time period is reasonably necessary to undertake the appropriate corrective action, the Approval Authority shall either withdraw such discharge limits or require modifications in the revised discharge limits.

(iii) *Public notice of withdrawal or modification.* The Approval Authority shall not withdraw or modify revised discharge limits unless it shall first have notified the POTW and all Industrial Users to whom revised discharge limits have been applied, and made public, in writing, the reasons for such withdrawal or modification, and an opportunity is provided for a hearing. Following such notice and withdrawal or modification, all Industrial Users to whom revised discharge limits had been applied, shall be subject to the modified discharge limits or the discharge limits prescribed in the applicable categorical Pretreatment Standards, as appropriate, and shall achieve compliance with such limits within a reasonable time (not to exceed the period of time prescribed in the applicable categorical Pretreatment Standard(s) as may be specified by the Approval Authority.

(g) *Removal credits in State-run pretreatment programs under §403.10(e).* Where an NPDES State with an approved pretreatment program elects to implement a local pretreatment program in lieu of requiring the POTW to develop such a program (as provided in §403.10(e)), the POTW will not be required to develop a pretreatment program as a precondition to

obtaining authorization to give removal credits. The POTW will, however, be required to comply with the other conditions of paragraph (a)(3) of this section.

(h) *Compensation for overflow.* "Overflow" means the intentional or unintentional diversion of flow from the POTW before the POTW Treatment Plant. POTWs which at least once annually Overflow untreated wastewater to receiving waters may claim Consistent Removal of a pollutant only by complying with either paragraphs (h)(1) or (h)(2) of this section. However, paragraph (h) of this section shall not apply where Industrial User(s) can demonstrate that Overflow does not occur between the Industrial User(s) and the POTW Treatment Plant;


(1) The Industrial User provides containment or otherwise ceases or reduces Discharges from the regulated processes which contain the pollutant for which an allowance is requested during all circumstances in which an Overflow event can reasonably be expected to occur at the POTW or at a sewer to which the Industrial User is connected. Discharges must cease or be reduced, or pretreatment must be increased, to the extent necessary to compensate for the removal not being provided by the POTW. Allowances under this provision will only be granted where the POTW submits to the Approval Authority evidence that:

(i) All Industrial Users to which the POTW proposes to apply this provision have demonstrated the ability to contain or otherwise cease or reduce, during circumstances in which an Overflow event can reasonably be expected to occur, Discharges from the regulated processes which contain pollutants for which an allowance is requested;

(ii) The POTW has identified circumstances in which an Overflow event can reasonably be expected to occur, and has a notification or other viable plan to insure that Industrial Users will learn of an impending Overflow in sufficient time to contain, cease or reduce Discharging to prevent untreated Overflows from occurring. The POTW must also demonstrate that it will monitor and verify the data required in paragraph (h)(1)(iii) of this section, to insure that Industrial Users are containing, ceasing or reducing operations during POTW System Overflow; and

(iii) All Industrial Users to which the POTW proposes to apply this provision have demonstrated the ability and commitment to collect and make available, upon request by the POTW, State Director or EPA Regional Administrator, daily flow reports or other data sufficient to demonstrate that all Discharges from regulated processes containing the pollutant for which the allowance is requested were contained, reduced or otherwise ceased, as appropriate, during all circumstances in which an Overflow event was reasonably expected to occur; or

(2)(i) The Consistent Removal claimed is reduced pursuant to the following equation:

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Where:

r_m = POTW's Consistent Removal rate for that pollutant as established under paragraphs (a)(1) and (b)(2) of this section

r_c = removal corrected by the Overflow factor

Z = hours per year that Overflows occurred between the Industrial User(s) and the POTW Treatment Plant, the hours either to be shown in the POTW's current NPDES permit application or the hours, as demonstrated by verifiable techniques, that a particular Industrial User's Discharge Overflows between the Industrial User and the POTW Treatment Plant; and

(ii) The POTW is complying with all NPDES permit requirements and any additional requirements in any order or decree, issued pursuant to the Clean Water Act affecting combined sewer overflows. These requirements include, but are not limited to, any combined sewer overflow requirements that conform to the Combined Sewer Overflow Control Policy.

[49 FR 31221, Aug. 3, 1984, as amended at 51 FR 20430, June 4, 1986; 53 FR 42435, Nov. 5, 1987; 58 FR 9386, Feb. 19, 1993; 58 FR 18017, Apr. 7, 1993; 70 FR 60193, Oct. 14, 2005]

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§403.8 Pretreatment Program Requirements: Development and Implementation by POTW.

(a) *POTWs required to develop a pretreatment program.* Any POTW (or combination of POTWs operated by the same authority) with a total design flow greater than 5 million gallons per day (mgd) and receiving from Industrial Users pollutants which Pass Through or Interfere with the operation of the POTW or are otherwise subject to Pretreatment Standards will be required to establish a POTW Pretreatment Program unless the NPDES State exercises its option to assume local responsibilities as provided for in §403.10(e). The Regional Administrator or Director may require that a POTW with a design flow of 5 mgd or less develop a POTW Pretreatment Program if he or she finds that the nature or volume of the industrial influent, treatment process upsets, violations of POTW effluent limitations, contamination of municipal sludge, or other circumstances warrant in order to prevent Interference with the POTW or Pass Through.

(b) *Deadline for Program Approval.* A POTW which meets the criteria of paragraph (a) of this section must receive approval of a POTW Pretreatment Program no later than 3 years after the reissuance or modification of its existing NPDES permit but in no case later than July 1, 1983. POTWs whose NPDES permits are modified under section 301(h) of the Act shall have a Pretreatment Program within three (3) years as provided for in 40 CFR part 125, subpart G. POTWs identified after July 1, 1983 as being required to develop a POTW Pretreatment Program under paragraph (a) of this section shall develop and submit such a program for approval as soon as possible, but in no case later than one year after written notification from the Approval Authority of such identification. The POTW Pretreatment Program shall meet the criteria set forth in paragraph (f) of this section and shall be administered by the POTW to ensure compliance by Industrial Users with applicable Pretreatment Standards and Requirements.

(c) *Incorporation of approved programs in permits.* A POTW may develop an appropriate POTW Pretreatment Program any time before the time limit set forth in paragraph (b) of this section. The POTW's NPDES Permit will be reissued or modified by the NPDES State or EPA to incorporate the approved Program as enforceable conditions of the Permit. The modification of a POTW's NPDES Permit for the purposes of incorporating a POTW Pretreatment Program approved in accordance with the procedure in §403.11 shall be deemed a minor Permit modification subject to the procedures in 40 CFR 122.63.

(d) *Incorporation of compliance schedules in permits.* [Reserved]

(e) *Cause for reissuance or modification of Permits.* Under the authority of section 402(b)(1)(C) of the Act, the Approval Authority may modify, or alternatively, revoke and reissue a POTW's Permit in order to:

(1) Put the POTW on a compliance schedule for the development of a POTW Pretreatment Program where the addition of pollutants into a POTW by an Industrial User or combination of Industrial Users presents a substantial hazard to the functioning of the treatment works, quality of the receiving waters, human health, or the environment;

(2) Coordinate the issuance of a section 201 construction grant with the incorporation into a permit of a compliance schedule for POTW Pretreatment Program;

(3) Incorporate a modification of the permit approved under section 301(h) or 301(i) of the Act;

(4) Incorporate an approved POTW Pretreatment Program in the POTW permit; or

(5) Incorporate a compliance schedule for the development of a POTW pretreatment program in the POTW permit.

(6) Incorporate the removal credits (established under §403.7) in the POTW permit.

(f) *POTW pretreatment requirements.* A POTW pretreatment program must be based on the following legal authority and include the following procedures. These authorities and procedures shall at all times be fully and effectively exercised and implemented.

(1) *Legal authority.* The POTW shall operate pursuant to legal authority enforceable in Federal, State or local courts, which authorizes or enables the POTW to apply and to enforce the requirements of sections 307 (b) and (c), and 402(b)(8) of the Act and any regulations implementing those sections. Such authority may be contained in a statute, ordinance, or series of contracts or joint powers agreements which the POTW is authorized to enact, enter into or implement, and which are authorized by State law. At a minimum, this legal authority shall enable the POTW to:

(i) Deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by Industrial Users where such contributions do not meet applicable Pretreatment Standards and Requirements or where such contributions would cause the POTW to violate its NPDES permit;

(ii) Require compliance with applicable Pretreatment Standards and Requirements by Industrial Users;

(iii) Control through Permit, order, or similar means, the contribution to the POTW by each Industrial User to ensure compliance with applicable Pretreatment Standards and Requirements. In the case of Industrial Users identified as significant under §403.3(v), this control shall be achieved through individual permits or equivalent individual control mechanisms issued to each such User except as follows.

(A)(1) At the discretion of the POTW, this control may include use of general control mechanisms if the following conditions are met. All of the facilities to be covered must:

(i) Involve the same or substantially similar types of operations;

(ii) Discharge the same types of wastes;

(iii) Require the same effluent limitations;

(iv) Require the same or similar monitoring; and

(v) In the opinion of the POTW, are more appropriately controlled under a general control mechanism than under individual control mechanisms.

(2) To be covered by the general control mechanism, the Significant Industrial User must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general control mechanism, any requests in accordance with §403.12(e)(2) for a monitoring waiver for a pollutant neither present nor expected to be present in the Discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the Discharge is not effective in the general control mechanism until after the POTW has provided written notice to the Significant Industrial User that such a waiver request has been granted in accordance with §403.12(e)(2). The POTW must retain a copy of the general control mechanism, documentation to support the POTW's determination that a specific Significant Industrial User meets the criteria in paragraphs (f)(1)(iii)(A)(1) through (5) of this section, and a copy of the User's written request for coverage for 3 years after the expiration of the general control mechanism. A POTW may not control a Significant Industrial User through a general control mechanism where the facility is subject to production-based categorical Pretreatment Standards or categorical Pretreatment Standards expressed as mass of pollutant discharged per day or for Industrial Users whose limits are based on the Combined Wastestream Formula or Net/Gross calculations (§§403.6(e) and 403.15).

(B) Both individual and general control mechanisms must be enforceable and contain, at a minimum, the following conditions:

(1) Statement of duration (in no case more than five years);

(2) Statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;

(3) Effluent limits, including Best Management Practices, based on applicable general Pretreatment Standards in part 403 of this chapter, categorical Pretreatment Standards, local limits, and State and local law;

(4) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the Discharge in accordance with §403.12(e)(2), or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general Pretreatment Standards in part 403 of this chapter, categorical Pretreatment Standards, local limits, and State and local law;

(5) Statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines;

(6) Requirements to control Slug Discharges, if determined by the POTW to be necessary.

(iv) Require (A) the development of a compliance schedule by each Industrial User for the installation of technology required to meet applicable Pretreatment Standards and Requirements and (B) the submission of all notices and self-monitoring reports from Industrial Users as are necessary to assess and assure compliance by Industrial Users with Pretreatment Standards and Requirements, including but not limited to the reports required in §403.12.

(v) Carry out all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by Industrial Users, compliance or noncompliance with applicable Pretreatment Standards and Requirements by Industrial Users. Representatives of the POTW shall be authorized to enter any premises of any Industrial User in which a Discharge source or treatment system is located or in which records are required to be kept under §403.12(o) to assure compliance with Pretreatment Standards. Such authority shall be at least as extensive as the authority provided under section 308 of the Act;

(vi)(A) Obtain remedies for noncompliance by any Industrial User with any Pretreatment Standard and Requirement. All POTW's shall be able to seek injunctive relief for noncompliance by Industrial Users with Pretreatment Standards and Requirements. All POTW's shall also have authority to seek or assess civil or criminal penalties in at least the amount of \$1,000 a day for each violation by Industrial Users of Pretreatment Standards and Requirements.

(B) Pretreatment requirements which will be enforced through the remedies set forth in paragraph (f)(1)(vi)(A) of this section, will include but not be limited to, the duty to allow or carry out inspections, entry, or monitoring activities; any rules, regulations, or orders issued by the POTW; any requirements set forth in control mechanisms issued by the POTW; or any reporting requirements imposed by the POTW or these regulations in this part. The POTW shall have authority and procedures (after informal notice to the discharger) immediately and effectively to halt or prevent any discharge of pollutants to the POTW which reasonably appears to present an imminent endangerment to the health or welfare of persons. The POTW shall also

have authority and procedures (which shall include notice to the affected industrial users and an opportunity to respond) to halt or prevent any discharge to the POTW which presents or may present an endangerment to the environment or which threatens to interfere with the operation of the POTW. The Approval Authority shall have authority to seek judicial relief and may also use administrative penalty authority when the POTW has sought a monetary penalty which the Approval Authority believes to be insufficient.

(vii) Comply with the confidentiality requirements set forth in §403.14.

(2) *Procedures.* The POTW shall develop and implement procedures to ensure compliance with the requirements of a Pretreatment Program. At a minimum, these procedures shall enable the POTW to:

(i) Identify and locate all possible Industrial Users which might be subject to the POTW Pretreatment Program. Any compilation, index or inventory of Industrial Users made under this paragraph shall be made available to the Regional Administrator or Director upon request;

(ii) Identify the character and volume of pollutants contributed to the POTW by the Industrial Users identified under paragraph (f)(2)(i) of this section. This information shall be made available to the Regional Administrator or Director upon request;

(iii) Notify Industrial Users identified under paragraph (f)(2)(i) of this section, of applicable Pretreatment Standards and any applicable requirements under sections 204(b) and 405 of the Act and subtitles C and D of the Resource Conservation and Recovery Act. Within 30 days of approval pursuant to 40 CFR 403.8(f)(6), of a list of significant industrial users, notify each significant industrial user of its status as such and of all requirements applicable to it as a result of such status.

(iv) Receive and analyze self-monitoring reports and other notices submitted by Industrial Users in accordance with the self-monitoring requirements in §403.12;

(v) Randomly sample and analyze the effluent from Industrial Users and conduct surveillance activities in order to identify, independent of information supplied by Industrial Users, occasional and continuing noncompliance with Pretreatment Standards. Inspect and sample the effluent from each Significant Industrial User at least once a year, except as otherwise specified below:

(A) Where the POTW has authorized the Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard in accordance with §403.12(e)(3), the POTW must sample for the waived pollutant(s) at least once during the term of the Categorical Industrial User's control mechanism. In the event that the POTW subsequently determines that a waived pollutant is present or is expected to be present in the Industrial User's wastewater based on changes that occur in the User's operations, the POTW must immediately begin at least annual effluent monitoring of the User's Discharge and inspection.

(B) Where the POTW has determined that an Industrial User meets the criteria for classification as a Non-Significant Categorical Industrial User, the POTW must evaluate, at least once per year, whether an Industrial User continues to meet the criteria in §403.3(v)(2).

(C) In the case of Industrial Users subject to reduced reporting requirements under §403.12(e)(3), the POTW must randomly sample and analyze the effluent from Industrial Users and conduct inspections at least once every two years. If the Industrial User no longer meets the conditions for reduced reporting in §403.12(e)(3), the POTW must immediately begin sampling and inspecting the Industrial User at least once a year.

(vi) Evaluate whether each such Significant Industrial User needs a plan or other action to control Slug Discharges. For Industrial Users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006; additional Significant Industrial Users must be evaluated within 1 year of being designated a Significant Industrial User. For purposes of this subsection, a Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, local limits or Permit conditions. The results of such activities shall be available to the Approval Authority upon request. Significant Industrial Users are required to notify the POTW immediately of any changes at its facility affecting potential for a Slug Discharge. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

(A) Description of discharge practices, including non-routine batch Discharges;

(B) Description of stored chemicals;

(C) Procedures for immediately notifying the POTW of Slug Discharges, including any Discharge that would violate a prohibition under §403.5(b) with procedures for follow-up written notification within five days;

(D) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response;

(vii) Investigate instances of noncompliance with Pretreatment Standards and Requirements, as indicated in the reports and notices required under §403.12, or indicated by analysis, inspection, and surveillance activities described in paragraph (f)(2)(v) of this section. Sample taking and analysis and the collection of other information shall be performed with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions; and

(viii) Comply with the public participation requirements of 40 CFR part 25 in the enforcement of National Pretreatment Standards. These procedures shall include provision for at least annual public notification in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW of Industrial Users which, at any time during the previous 12 months, were in significant noncompliance with applicable Pretreatment requirements. For the purposes of this provision, a Significant Industrial User (or any Industrial User which violates paragraphs (f)(2)(viii)(C), (D), or (H) of this section) is in significant noncompliance if its violation meets one or more of the following criteria:

(A) Chronic violations of wastewater Discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

(B) Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(C) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the POTW determines has caused, alone or in combination with other Discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public);

(D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under paragraph (f)(1)(vi)(B) of this section to halt or prevent such a discharge;

(E) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(F) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(G) Failure to accurately report noncompliance;

(H) Any other violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local Pretreatment program.

(3) *Funding.* The POTW shall have sufficient resources and qualified personnel to carry out the authorities and procedures described in paragraphs (f)(1) and (2) of this section. In some limited circumstances, funding and personnel may be delayed where (i) the POTW has adequate legal authority and procedures to carry out the Pretreatment Program requirements described in this section, and (ii) a limited aspect of the Program does not need to be implemented immediately (see §403.9(b)).

(4) *Local limits.* The POTW shall develop local limits as required in §403.5(c)(1), or demonstrate that they are not necessary.

(5) The POTW shall develop and implement an enforcement response plan. This plan shall contain detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance. The plan shall, at a minimum:

(i) Describe how the POTW will investigate instances of noncompliance;

(ii) Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;

(iii) Identify (by title) the official(s) responsible for each type of response;

(iv) Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in 40 CFR 403.8 (f)(1) and (f)(2).

(6) The POTW shall prepare and maintain a list of its Industrial Users meeting the criteria in §403.3(v)(1). The list shall identify the criteria in §403.3(v)(1) applicable to each Industrial User and, where applicable, shall also indicate whether the POTW has made a determination pursuant to §403.3(v)(2) that such Industrial User should not be considered a Significant Industrial User. The initial list shall be submitted to the Approval Authority pursuant to §403.9 or as a non-substantial modification pursuant to §403.18(d). Modifications to the list shall be submitted to the Approval Authority pursuant to §403.12(i) (1).

(g) A POTW that chooses to receive electronic documents must satisfy the requirements of 40 CFR part 3—(Electronic reporting).

[46 FR 9439, Jan. 28, 1981, as amended at 49 FR 31224, Aug. 3, 1984; 51 FR 20429, 20430, June 4, 1986; 51 FR 23759, July 1, 1986; 53 FR 40612, Oct. 17, 1988; 55 FR 30129, July 24, 1990; 58 FR 18017, Apr. 7, 1993; 60 FR 33932, June 29, 1995; 62 FR 38414, July 17, 1997; 70 FR 59889, Oct. 13, 2005; 70 FR 60193, Oct. 14, 2005]

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§403.9 POTW pretreatment programs and/or authorization to revise pretreatment standards: Submission for approval.

(a) *Who approves Program.* A POTW requesting approval of a POTW Pretreatment Program shall develop a program description which includes the information set forth in paragraphs (b)(1) through (4) of this section. This description shall be submitted to the Approval Authority which will make a determination on the request for program approval in accordance with the procedures described in §403.11.

(b) *Contents of POTW program submission.* The program description must contain the following information:

(1) A statement from the City Solicitor or a city official acting in a comparable capacity (or the attorney for those POTWs which have independent legal counsel) that the POTW has authority adequate to carry out the programs described in §403.8. This statement shall:

(i) Identify the provision of the legal authority under §403.8(f)(1) which provides the basis for each procedure under §403.8(f)(2);

(ii) Identify the manner in which the POTW will implement the program requirements set forth in §403.8, including the means by which Pretreatment Standards will be applied to individual Industrial Users (e.g., by order, permit, ordinance, etc.); and

(iii) Identify how the POTW intends to ensure compliance with Pretreatment Standards and Requirements, and to enforce them in the event of noncompliance by Industrial Users;

(2) A copy of any statutes, ordinances, regulations, agreements, or other authorities relied upon by the POTW for its administration of the Program. This Submission shall include a statement reflecting the endorsement or approval of the local boards or bodies responsible for supervising and/or funding the POTW Pretreatment Program if approved;

(3) A brief description (including organization charts) of the POTW organization which will administer the Pretreatment Program. If more than one agency is responsible for administration of the Program the responsible agencies should be identified, their respective responsibilities delineated, and their procedures for coordination set forth; and

(4) A description of the funding levels and full- and part-time manpower available to implement the Program;

(c) *Conditional POTW program approval.* The POTW may request conditional approval of the Pretreatment Program pending the acquisition of funding and personnel for certain elements of the Program. The request for conditional approval must meet the requirements set forth in paragraph (b) of this section except that the requirements of paragraph (b) of this section, may be relaxed if the Submission demonstrates that:

(1) A limited aspect of the Program does not need to be implemented immediately;

(2) The POTW had adequate legal authority and procedures to carry out those aspects of the Program which will not be implemented immediately; and

(3) Funding and personnel for the Program aspects to be implemented at a later date will be available when needed. The POTW will describe in the Submission the mechanism by which this funding will be acquired. Upon receipt of a request for conditional approval, the Approval Authority will establish a fixed date for the acquisition of the needed funding and personnel. If

funding is not acquired by this date, the conditional approval of the POTW Pretreatment Program and any removal allowances granted to the POTW, may be modified or withdrawn.

(d) *Content of removal allowance submission.* The request for authority to revise categorical Pretreatment Standards must contain the information required in §403.7(d).

(e) *Approval authority action.* Any POTW requesting POTW Pretreatment Program approval shall submit to the Approval Authority three copies of the Submission described in paragraph (b), and if appropriate, (d) of this section. Within 60 days after receiving the Submission, the Approval Authority shall make a preliminary determination of whether the Submission meets the requirements of paragraph (b) and, if appropriate, (d) of this section. If the Approval Authority makes the preliminary determination that the Submission meets these requirements, the Approval Authority shall:

- (1) Notify the POTW that the Submission has been received and is under review; and
- (2) Commence the public notice and evaluation activities set forth in §403.11.

(f) *Notification where submission is defective.* If, after review of the Submission as provided for in paragraph (e) of this section, the Approval Authority determines that the Submission does not comply with the requirements of paragraph (b) or (c) of this section, and, if appropriate, paragraph (d), of this section, the Approval Authority shall provide notice in writing to the applying POTW and each person who has requested individual notice. This notification shall identify any defects in the Submission and advise the POTW and each person who has requested individual notice of the means by which the POTW can comply with the applicable requirements of paragraphs (b), (c) of this section, and, if appropriate, paragraph (d) of this section.

(g) *Consistency with water quality management plans.* (1) In order to be approved the POTW Pretreatment Program shall be consistent with any approved water quality management plan developed in accordance with 40 CFR parts 130, 131, as revised, where such 208 plan includes Management Agency designations and addresses pretreatment in a manner consistent with 40 CFR part 403. In order to assure such consistency the Approval Authority shall solicit the review and comment of the appropriate 208 Planning Agency during the public comment period provided for in §403.11(b)(1)(ii) prior to approval or disapproval of the Program.

(2) Where no 208 plan has been approved or where a plan has been approved but lacks Management Agency designations and/or does not address pretreatment in a manner consistent with this regulation, the Approval Authority shall nevertheless solicit the review and comment of the appropriate 208 planning agency.

[53 FR 9439, Jan. 28, 1981, as amended at 53 FR 40612, Oct. 17, 1988; 58 FR 18017, Apr. 7, 1993]

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§403.10 Development and submission of NPDES State pretreatment programs.

(a) *Approval of State Programs.* No State NPDES program shall be approved under section 402 of the Act after the effective date of these regulations unless it is determined to meet the requirements of paragraph (f) of this section. Notwithstanding any other provision of this regulation, a State will be required to act upon those authorities which it currently possesses before the approval of a State Pretreatment Program.

(b) [Reserved]

(c) *Failure to request approval.* Failure of an NPDES State with a permit program approved under section 402 of the Act prior to December 27, 1977, to seek approval of a State Pretreatment Program and failure of an approved State to administer its State Pretreatment Program in accordance with the requirements of this section constitutes grounds for withdrawal of NPDES program approval under section 402(c)(3) of the Act.

(d) [Reserved]

(e) *State Program in lieu of POTW Program.* Notwithstanding the provision of §403.8(a), a State with an approved Pretreatment Program may assume responsibility for implementing the POTW Pretreatment Program requirements set forth in §403.8(f) in lieu of requiring the POTW to develop a Pretreatment Program. However, this does not preclude POTW's from independently developing Pretreatment Programs.

(f) *State Pretreatment Program requirements.* In order to be approved, a request for State Pretreatment Program Approval must demonstrate that the State Pretreatment Program has the following elements:

(1) *Legal authority.* The Attorney General's Statement submitted in accordance with paragraph (g)(1)(i) of this section shall certify that the Director has authority under State law to operate and enforce the State Pretreatment Program to the extent required by this part and by 40 CFR 123.27. At a minimum, the Director shall have the authority to:

(i) Incorporate POTW Pretreatment Program conditions into permits issued to POTW's; require compliance by POTW's with these incorporated permit conditions; and require compliance by Industrial Users with Pretreatment Standards;

(ii) Ensure continuing compliance by POTW's with pretreatment conditions incorporated into the POTW Permit through review of monitoring reports submitted to the Director by the POTW in accordance with §403.12 and ensure continuing compliance by Industrial Users with Pretreatment Standards through the review of self-monitoring reports submitted to the POTW or to the Director by the Industrial Users in accordance with §403.12;

(iii) Carry out inspection, surveillance and monitoring procedures which will determine, independent of information supplied by the POTW, compliance or noncompliance by the POTW with pretreatment conditions incorporated into the POTW Permit; and carry out inspection, surveillance and monitoring procedures which will determine, independent of information supplied by the Industrial User, whether the Industrial User is in compliance with Pretreatment Standards;

(iv) Seek civil and criminal penalties, and injunctive relief, for noncompliance by the POTW with pretreatment conditions incorporated into the POTW Permit and for noncompliance with Pretreatment Standards by Industrial Users as set forth in §403.8(f)(1)(vi). The Director shall have authority to seek judicial relief for noncompliance by Industrial Users even when the POTW has acted to seek such relief (e.g., if the POTW has sought a penalty which the Director finds to be insufficient);

(v) Approve and deny requests for approval of POTW Pretreatment Programs submitted by a POTW to the Director;

(vi) Deny and recommend approval of (but not approve) requests for Fundamentally Different Factors variances submitted by Industrial Users in accordance with the criteria and procedures set forth in §403.13; and

(vii) Approve and deny requests for authority to modify categorical Pretreatment Standards to reflect removals achieved by the POTW in accordance with the criteria and procedures set forth in §§403.7, 403.9 and 403.11.

(2) *Procedures.* The Director shall have developed procedures to carry out the requirements of sections 307 (b) and (c), and 402(b)(1), 402(b)(2), 402(b)(8), and 402(b)(9) of the Act. At a minimum, these procedures shall enable the Director to:

(i) Identify POTW's required to develop Pretreatment Programs in accordance with §403.8(a) and notify these POTW's of the need to develop a POTW Pretreatment Program. In the absence of a POTW Pretreatment Program, the State shall have procedures to carry out the activities set forth in §403.8(f)(2);

(ii) Provide technical and legal assistance to POTW's in developing Pretreatment Programs;

(iii) Develop compliance schedules for inclusion in POTW Permits which set forth the shortest reasonable time schedule for the completion of tasks needed to implement a POTW Pretreatment Program. The final compliance date in these schedules shall be no later than July 1, 1983;

(iv) Sample and analyze:

(A) Influent and effluent of the POTW to identify, independent of information supplied by the POTW, compliance or noncompliance with pollutant removal levels set forth in the POTW permit (see §403.7); and

(B) The contents of sludge from the POTW and methods of sludge disposal and use to identify, independent of information supplied by the POTW, compliance or noncompliance with requirements applicable to the selected method of sludge management;

(v) Investigate evidence of violations of pretreatment conditions set forth in the POTW Permit by taking samples and acquiring other information as needed. This data acquisition shall be performed with sufficient care as to produce evidence admissible in an enforcement proceeding or in court;

(vi) Review and approve requests for approval of POTW Pretreatment Programs and authority to modify categorical Pretreatment Standards submitted by a POTW to the Director; and

(vii) Consider requests for Fundamentally Different Factors variances submitted by Industrial Users in accordance with the criteria and procedures set forth in §403.13.

(viii) Regularly notify all Control Authorities of electronic submission requirements of 40 CFR part 127.

(3) *Funding.* The Director shall assure that funding and qualified personnel are available to carry out the authorities and procedures described in paragraphs (f)(1) and (2) of this section.

(g) *Content of State Pretreatment Program submission.* The request for State Pretreatment Program approval will consist of:

(1)(i) A statement from the State Attorney General (or the Attorney for those State agencies which have independent legal counsel) that the laws of the State provide adequate authority to implement the requirements of this part. The authorities cited by the Attorney General in this statement shall be in the form of lawfully adopted State statutes or regulations which shall be effective by the time of approval of the State Pretreatment Program; and

(ii) Copies of all State statutes and regulations cited in the above statement;

(iii) States with approved Pretreatment Programs shall establish Pretreatment regulations by November 16, 1989, unless the State would be required to enact or amend statutory provision, in which case, such regulations must be established by November 16, 1990.

(2) A description of the funding levels and full- and part-time personnel available to implement the program; and

(3) Any modifications or additions to the Memorandum of Agreement (required by 40 CFR 123.24) which may be necessary for EPA and the State to implement the requirements of this part.

(h) *EPA Action.* Any approved NPDES State requesting State Pretreatment Program approval shall submit to the Regional Administrator three copies of the Submission described in paragraph (g) of this section. Upon a preliminary determination that the Submission meets the requirements of paragraph (g) the Regional Administrator shall:

(1) Notify the Director that the Submission has been received and is under review; and

(2) Commence the program revision process set out in 40 CFR 123.62. For purposes of that section all requests for approval of State Pretreatment Programs shall be deemed substantial program modifications. A comment period of at least 30 days and the opportunity for a hearing shall be afforded the public on all such proposed program revisions.

(i) *Notification where submission is defective.* If, after review of the Submission as provided for in paragraph (h) of this section, EPA determines that the Submission does not comply with the requirements of paragraph (f) or (g) of this section EPA shall so notify the applying NPDES State in writing. This notification shall identify any defects in the Submission and advise the NPDES State of the means by which it can comply with the requirements of this part.

[46 FR 9439, Jan. 28, 1981, as amended at 51 FR 20429, June 4, 1986; 53 FR 40612, Oct. 17, 1988; 55 FR 30131, July 24, 1990; 58 FR 18017, Apr. 7, 1993; 60 FR 33932, June 29, 1995; 80 FR 64156, Oct. 22, 2015]

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§403.11 Approval procedures for POTW pretreatment programs and POTW granting of removal credits.

The following procedures shall be adopted in approving or denying requests for approval of POTW Pretreatment Programs and applications for removal credit authorization:

(a) *Deadline for review of submission.* The Approval Authority shall have 90 days from the date of public notice of any Submission complying with the requirements of §403.9(b) and, where removal credit authorization is sought with §§403.7(e) and 403.9(d), to review the Submission. The Approval Authority shall review the Submission to determine compliance with the requirements of §403.8 (b) and (f), and, where removal credit authorization is sought, with §403.7. The Approval Authority may have up to an additional 90 days to complete the evaluation of the Submission if the public comment period provided for in paragraph (b)(1)(ii) of this section is extended beyond 30 days or if a public hearing is held as provided for in paragraph (b)(2) of this section. In no event, however, shall the time for evaluation of the Submission exceed a total of 180 days from the date of public notice of a Submission meeting the requirements of §403.9(b) and, in the case of a removal credit application, §§403.7(e) and 403.9(b).

(b) *Public notice and opportunity for hearing.* Upon receipt of a Submission the Approval Authority shall commence its review. Within 20 work days after making a determination that a Submission meets the requirements of §403.9(b) and, where removal allowance approval is sought, §§403.7(d) and 403.9(d), the Approval Authority shall:

(1) Issue a public notice of request for approval of the Submission;

(i) This public notice shall be circulated in a manner designed to inform interested and potentially interested persons of the Submission. Procedures for the circulation of public notice shall include:

(A) Mailing notices of the request for approval of the Submission to designated 208 planning agencies, Federal and State fish, shellfish and wildfish resource agencies (unless such agencies have asked not to be sent the notices); and to any other person or group who has requested individual notice, including those on appropriate mailing lists; and

(B) Publication of a notice of request for approval of the Submission in a newspaper(s) of general circulation within the jurisdiction(s) served by the POTW that meaningful public notice.

(ii) The public notice shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the Submission.

(iii) All written comments submitted during the 30 day comment period shall be retained by the Approval Authority and considered in the decision on whether or not to approve the Submission. The period for comment may be extended at the discretion of the Approval Authority; and

(2) Provide an opportunity for the applicant, any affected State, any interested State or Federal agency, person or group of persons to request a public hearing with respect to the Submission.

(i) This request for public hearing shall be filed within the 30 day (or extended) comment period described in paragraph (b)(1)(ii) of this section and shall indicate the interest of the person filing such request and the reasons why a hearing is warranted.

(ii) The Approval Authority shall hold a hearing if the POTW so requests. In addition, a hearing will be held if there is a significant public interest in issues relating to whether or not the Submission should be approved. Instances of doubt should be resolved in favor of holding the hearing.

(iii) Public notice of a hearing to consider a Submission and sufficient to inform interested parties of the nature of the hearing and the right to participate shall be published in the same newspaper as the notice of the original request for approval of the Submission under paragraph (b)(1)(i)(B) of this section. In addition, notice of the hearing shall be sent to those persons requesting individual notice.

(c) *Approval authority decision.* At the end of the 30 day (or extended) comment period and within the 90 day (or extended) period provided for in paragraph (a) of this section, the Approval Authority shall approve or deny the Submission based upon the evaluation in paragraph (a) of this section and taking into consideration comments submitted during the comment period and the record of the public hearing, if held. Where the Approval Authority makes a determination to deny the request, the Approval Authority shall so notify the POTW and each person who has requested individual notice. This notification shall include suggested modifications and the Approval Authority may allow the requestor additional time to bring the Submission into compliance with applicable requirements.

(d) *EPA objection to Director's decision.* No POTW pretreatment program or authorization to grant removal allowances shall be approved by the Director if following the 30 day (or extended) evaluation period provided for in paragraph (b)(1)(ii) of this section and any hearing held pursuant to paragraph (b)(2) of this section the Regional Administrator sets forth in writing objections to the approval of such Submission and the reasons for such objections. A copy of the Regional Administrator's objections shall be provided to the applicant, and each person who has requested individual notice. The Regional Administrator shall provide an opportunity for written comments and may convene a public hearing on his or her objections. Unless retracted, the Regional Administrator's objections shall constitute a final ruling to deny approval of a POTW pretreatment program or authorization to grant removal allowances 90 days after the date the objections are issued.

(e) *Notice of decision.* The Approval Authority shall notify those persons who submitted comments and participated in the public hearing, if held, of the approval or disapproval of the Submission. In addition, the Approval Authority shall cause to be published a notice of approval or disapproval in the same newspapers as the original notice of request for approval of the Submission was published. The Approval Authority shall identify in any notice of POTW Pretreatment Program approval any authorization to modify categorical Pretreatment Standards which the POTW may make, in accordance with §403.7, for removal of pollutants subject to Pretreatment Standards.

(f) *Public access to submission.* The Approval Authority shall ensure that the Submission and any comments upon such Submission are available to the public for inspection and copying.

[46 FR 9439, Jan. 28, 1981, as amended at 49 FR 31224, Aug. 3, 1984; 51 FR 20429, June 4, 1986; 53 FR 40613, Oct. 17, 1988; 62 FR 38414, July 17, 1997]

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§403.12 Reporting requirements for POTW's and industrial users.

(a) [Reserved]

(b) *Reporting requirements for industrial users upon effective date of categorical pretreatment standard—baseline report.* Within 180 days after the effective date of a categorical Pretreatment Standard, or 180 days after the final administrative decision made upon a category determination submission under §403.6(a)(4), whichever is later, existing Industrial Users subject to such categorical Pretreatment Standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit to the Control Authority a report which contains the information listed in paragraphs (b)(1)-(7) of this section. At least 90 days prior to commencement of discharge, New Sources, and sources that become Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall be required to submit to the Control Authority a report which

contains the information listed in paragraphs (b)(1)-(5) of this section. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New Sources shall give estimates of the information requested in paragraphs (b) (4) and (5) of this section:

(1) *Identifying information.* The User shall submit the name and address of the facility including the name of the operator and owners;

(2) *Permits.* The User shall submit a list of any environmental control permits held by or for the facility;

(3) *Description of operations.* The User shall submit a brief description of the nature, average rate of production, and Standard Industrial Classification of the operation(s) carried out by such Industrial User. This description should include a schematic process diagram which indicates points of Discharge to the POTW from the regulated processes.

(4) *Flow measurement.* The User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

(i) Regulated process streams; and

(ii) Other streams as necessary to allow use of the combined wastestream formula of §403.6(e). (See paragraph (b)(5)(iv) of this section.)

The Control Authority may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

(5) *Measurement of pollutants.* (i) The user shall identify the Pretreatment Standards applicable to each regulated process;

(ii) In addition, the User shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the Standard or Control Authority) of regulated pollutants in the Discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the Standard requires compliance with a Best Management Practice or pollution prevention alternative, the User shall submit documentation as required by the Control Authority or the applicable Standards to determine compliance with the Standard;

(iii) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

(iv) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula of §403.6(e) in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with §403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;

(v) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Administrator determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the Administrator;

(vi) The Control Authority may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(vii) The baseline report shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW;

(6) *Certification.* A statement, reviewed by an authorized representative of the Industrial User (as defined in paragraph (l) of this section) and certified to by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O and M) and/or additional Pretreatment is required for the Industrial User to meet the Pretreatment Standards and Requirements; and

(7) *Compliance schedule.* If additional pretreatment and/or O and M will be required to meet the Pretreatment Standards; the shortest schedule by which the Industrial User will provide such additional pretreatment and/or O and M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

(i) Where the Industrial User's categorical Pretreatment Standard has been modified by a removal allowance (§403.7), the combined wastestream formula (§403.6(e)), and/or a Fundamentally Different Factors variance (§403.13) at the time the User

submits the report required by paragraph (b) of this section, the information required by paragraphs (b)(6) and (7) of this section shall pertain to the modified limits.

(ii) If the categorical Pretreatment Standard is modified by a removal allowance (§403.7), the combined wastestream formula (§403.6(e)), and/or a Fundamentally Different Factors variance (§403.13) after the User submits the report required by paragraph (b) of this section, any necessary amendments to the information requested by paragraphs (b)(6) and (7) of this section shall be submitted by the User to the Control Authority within 60 days after the modified limit is approved.

(c) *Compliance schedule for meeting categorical Pretreatment Standards.* The following conditions shall apply to the schedule required by paragraph (b)(7) of this section:

(1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Industrial User to meet the applicable categorical Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(2) No increment referred to in paragraph (c)(1) of this section shall exceed 9 months.

(3) Not later than 14 days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to the Control Authority including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the Industrial User to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the Control Authority.

(d) *Report on compliance with categorical pretreatment standard deadline.* Within 90 days following the date for final compliance with applicable categorical Pretreatment Standards or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any Industrial User subject to Pretreatment Standards and Requirements shall submit to the Control Authority a report containing the information described in paragraphs (b) (4)-(6) of this section. For Industrial Users subject to equivalent mass or concentration limits established by the Control Authority in accordance with the procedures in §403.6(c), this report shall contain a reasonable measure of the User's long term production rate. For all other Industrial Users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period.

(e) *Periodic reports on continued compliance.* (1) Any Industrial User subject to a categorical Pretreatment Standard (except a Non-Significant Categorical User as defined in §403.3(v)(2)), after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the POTW, shall submit to the Control Authority during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Control Authority or the Approval Authority, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical Pretreatment Standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the Discharge reported in paragraph (b)(4) of this section except that the Control Authority may require more detailed reporting of flows. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the User shall submit documentation required by the Control Authority or the Pretreatment Standard necessary to determine the compliance status of the User. At the discretion of the Control Authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may modify the months during which the above reports are to be submitted. For Industrial Users for which EPA or the authorized state, tribe, or territory is the Control Authority, as of December 21, 2020 all reports submitted in compliance with this section must be submitted electronically by the industrial user to the Control Authority or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to part 3), 40 CFR 122.22, and 40 CFR part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of part 127, the Industrial Users for which EPA or the authorized state, tribe, or territory is the Control Authority may be required to report electronically if specified by a particular control mechanism or if required to do so by state law.

(2) The Control Authority may authorize the Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:

(i) The Control Authority may authorize a waiver where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.

(ii) The monitoring waiver is valid only for the duration of the effective period of the Permit or other equivalent individual control mechanism, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism.

(iii) In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

The request for a monitoring waiver must be signed in accordance with paragraph (l) of this section and include the certification statement in §403.6(a)(2)(ii). Non-detectable sample results may only be used as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(iv) Any grant of the monitoring waiver by the Control Authority must be included as a condition in the User's control mechanism. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Control Authority for 3 years after expiration of the waiver.

(v) Upon approval of the monitoring waiver and revision of the User's control mechanism by the Control Authority, the Industrial User must certify on each report with the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under 40 CFR 403.12(e)(1).

(vi) In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of paragraph (e)(1) of this section or other more frequent monitoring requirements imposed by the Control Authority; and notify the Control Authority.

(vii) This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.

(3) The Control Authority may reduce the requirement in paragraph (e)(1) of this section to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by the Approval Authority, where the Industrial User meets all of the following conditions:

(i) The Industrial User's total categorical wastewater flow does not exceed any of the following:

(A) 0.01 percent of the design dry weather hydraulic capacity of the POTW, or 5,000 gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches;

(B) 0.01 percent of the design dry weather organic treatment capacity of the POTW; and

(C) 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical Pretreatment Standard for which approved local limits were developed by a POTW in accordance with §403.5(c) and paragraph (d) of this section;

(ii) The Industrial User has not been in significant noncompliance, as defined in §403.8(f)(2)(viii), for any time in the past two years;

(iii) The Industrial User does not have daily flow rates, production levels, or pollutant levels that vary so significantly that decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period pursuant to paragraph (g)(3) of this section;

(iv) The Industrial User must notify the Control Authority immediately of any changes at its facility causing it to no longer meet conditions of paragraphs (e)(3)(i) or (ii) of this section. Upon notification, the Industrial User must immediately begin complying with the minimum reporting in paragraph (e)(1) of this section; and

(v) The Control Authority must retain documentation to support the Control Authority's determination that a specific Industrial User qualifies for reduced reporting requirements under paragraph (e)(3) of this section for a period of 3 years after the expiration of the term of the control mechanism.

(4) For Industrial Users subject to equivalent mass or concentration limits established by the Control Authority in accordance with the procedures in §403.6(c), the report required by paragraph (e)(1) shall contain a reasonable measure of the User's long term production rate. For all other Industrial Users subject to categorical Pretreatment Standards expressed only in

terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by paragraph (e)(1) shall include the User's actual average production rate for the reporting period.

(f) *Notice of potential problems, including slug loading.* All categorical and non-categorical Industrial Users shall notify the POTW immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined by §403.5(b), by the Industrial User.

(g) *Monitoring and analysis to demonstrate continued compliance.* (1) Except in the case of Non-Significant Categorical Users, the reports required in paragraphs (b), (d), (e), and (h) of this section shall contain the results of sampling and analysis of the Discharge, including the flow and the nature and concentration, or production and mass where requested by the Control Authority, of pollutants contained therein which are limited by the applicable Pretreatment Standards. This sampling and analysis may be performed by the Control Authority in lieu of the Industrial User. Where the POTW performs the required sampling and analysis in lieu of the Industrial User, the User will not be required to submit the compliance certification required under paragraphs (b)(6) and (d) of this section. In addition, where the POTW itself collects all the information required for the report, including flow data, the Industrial User will not be required to submit the report.

(2) If sampling performed by an Industrial User indicates a violation, the User shall notify the Control Authority within 24 hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within 30 days after becoming aware of the violation. Where the Control Authority has performed the sampling and analysis in lieu of the Industrial User, the Control Authority must perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat analysis. Resampling is not required if:

(i) The Control Authority performs sampling at the Industrial User at a frequency of at least once per month; or

(ii) The Control Authority performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the Control Authority receives the results of this sampling.

(3) The reports required in paragraphs (b), (d), (e) and (h) of this section must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The Control Authority shall require that frequency of monitoring necessary to assess and assure compliance by Industrial Users with applicable Pretreatment Standards and Requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Control Authority. Where time-proportional composite sampling or grab sampling is authorized by the Control Authority, the samples must be representative of the Discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil & grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Control Authority, as appropriate.

(4) For sampling required in support of baseline monitoring and 90-day compliance reports required in paragraphs (b) and (d) of this section, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Control Authority may authorize a lower minimum. For the reports required by paragraphs (e) and (h) of this section, the Control Authority shall require the number of grab samples necessary to assess and assure compliance by Industrial Users with Applicable Pretreatment Standards and Requirements.

(5) All analyses shall be performed in accordance with procedures established by the Administrator pursuant to section 304(h) of the Act and contained in 40 CFR part 136 and amendments thereto or with any other test procedures approved by the Administrator. (See, §§136.4 and 136.5.) Sampling shall be performed in accordance with the techniques approved by the Administrator. Where 40 CFR part 136 does not include sampling or analytical techniques for the pollutants in question, or where the Administrator determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the Administrator.

(6) If an Industrial User subject to the reporting requirement in paragraph (e) or (h) of this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Control Authority, using the procedures prescribed in paragraph (g)(5) of this section, the results of this monitoring shall be included in the report.

(h) *Reporting requirements for Industrial Users not subject to categorical Pretreatment Standards.* The Control Authority must require appropriate reporting from those Industrial Users with Discharges that are not subject to categorical Pretreatment

Standards. Significant Non-categorical Industrial Users must submit to the Control Authority at least once every six months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. In cases where a local limit requires compliance with a Best Management Practice or pollution prevention alternative, the User must submit documentation required by the Control Authority to determine the compliance status of the User. These reports must be based on sampling and analysis performed in the period covered by the report, and in accordance with the techniques described in part 136 of this chapter and amendments thereto. This sampling and analysis may be performed by the Control Authority in lieu of the significant non-categorical Industrial User. For Industrial Users for which EPA or the authorized state, tribe, or territory is the Control Authority, as of December 21, 2020 all reports submitted in compliance with this section must be submitted electronically by the industrial user to the Control Authority or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to part 3), 40 CFR 122.22, and 40 CFR part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of part 127, the Industrial Users for which EPA or the authorized state, tribe, or territory is the Control Authority may be required to report electronically if specified by a particular control mechanism or if required to do so by state law.

(i) *Annual POTW reports.* POTWs with approved Pretreatment Programs shall provide the Approval Authority with a report that briefly describes the POTW's program activities, including activities of all participating agencies, if more than one jurisdiction is involved in the local program. The report required by this section shall be submitted no later than one year after approval of the POTW's Pretreatment Program, and at least annually thereafter, and must include, at a minimum, the applicable required data in appendix A to 40 CFR part 127. The report required by this section must also include a summary of changes to the POTW's pretreatment program that have not been previously reported to the Approval Authority and any other relevant information requested by the Approval Authority. As of December 21, 2020 all annual reports submitted in compliance with this section must be submitted electronically by the POTW Pretreatment Program to the Approval Authority or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to part 3), 40 CFR 122.22, and 40 CFR part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of part 127, the Approval Authority may also require POTW Pretreatment Programs to electronically submit annual reports under this section if specified by a particular permit or if required to do so by state law.

(1) An updated list of the POTW's Industrial Users, including their names and addresses, or a list of deletions and additions keyed to a previously submitted list. The POTW shall provide a brief explanation of each deletion. This list shall identify which Industrial Users are subject to categorical Pretreatment Standards and specify which Standards are applicable to each Industrial User. The list shall indicate which Industrial Users are subject to local standards that are more stringent than the categorical Pretreatment Standards. The POTW shall also list the Industrial Users that are subject only to local Requirements. The list must also identify Industrial Users subject to categorical Pretreatment Standards that are subject to reduced reporting requirements under paragraph (e)(3), and identify which Industrial Users are Non-Significant Categorical Industrial Users.

(2) A summary of the status of Industrial User compliance over the reporting period;

(3) A summary of compliance and enforcement activities (including inspections) conducted by the POTW during the reporting period;

(4) A summary of changes to the POTW's pretreatment program that have not been previously reported to the Approval Authority; and

(5) Any other relevant information requested by the Approval Authority.

(j) *Notification of changed Discharge.* All Industrial Users shall promptly notify the Control Authority (and the POTW if the POTW is not the Control Authority) in advance of any substantial change in the volume or character of pollutants in their Discharge, including the listed or characteristic hazardous wastes for which the Industrial User has submitted initial notification under paragraph (p) of this section.

(k) *Compliance schedule for POTW's.* The following conditions and reporting requirements shall apply to the compliance schedule for development of an approvable POTW Pretreatment Program required by §403.8.

(1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the development and implementation of a POTW Pretreatment Program (e.g., acquiring required authorities, developing funding mechanisms, acquiring equipment);

(2) No increment referred to in paragraph (k)(1) of this section shall exceed nine months;

(3) Not later than 14 days following each date in the schedule and the final date for compliance, the POTW shall submit a progress report to the Approval Authority including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay,

and the steps taken by the POTW to return to the schedule established. In no event shall more than nine months elapse between such progress reports to the Approval Authority.

(l) *Signatory requirements for Industrial User reports.* The reports required by paragraphs (b), (d), and (e) of this section shall include the certification statement as set forth in §403.6(a)(2)(ii), and shall be signed as follows:

(1) By a responsible corporate officer, if the Industrial User submitting the reports required by paragraphs (b), (d), and (e) of this section is a corporation. For the purpose of this paragraph, a responsible corporate officer means:

(i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or

(ii) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) By a general partner or proprietor if the Industrial User submitting the reports required by paragraphs (b), (d), and (e) of this section is a partnership, or sole proprietorship respectively.

(3) By a duly authorized representative of the individual designated in paragraph (l)(1) or (l)(2) of this section if:

(i) The authorization is made in writing by the individual described in paragraph (l)(1) or (l)(2);

(ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the Industrial Discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

(iii) the written authorization is submitted to the Control Authority.

(4) If an authorization under paragraph (l)(3) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of paragraph (l)(3) of this section must be submitted to the Control Authority prior to or together with any reports to be signed by an authorized representative.

(m) *Signatory requirements for POTW reports.* Reports submitted to the Approval Authority by the POTW in accordance with paragraph (i) of this section must be signed by a principal executive officer, ranking elected official or other duly authorized employee. The duly authorized employee must be an individual or position having responsibility for the overall operation of the facility or the Pretreatment Program. This authorization must be made in writing by the principal executive officer or ranking elected official, and submitted to the Approval Authority prior to or together with the report being submitted.

(n) *Provisions Governing Fraud and False Statements:* The reports and other documents required to be submitted or maintained under this section shall be subject to:

(1) The provisions of 18 U.S.C. section 1001 relating to fraud and false statements;

(2) The provisions of sections 309(c)(4) of the Act, as amended, governing false statements, representation or certification; and

(3) The provisions of section 309(c)(6) regarding responsible corporate officers.

(o) *Record-keeping requirements.* (1) Any Industrial User and POTW subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section, including documentation associated with Best Management Practices. Such records shall include for all samples:

(i) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;

(ii) The dates analyses were performed;

(iii) Who performed the analyses;

(iv) The analytical techniques/methods use; and

(v) The results of such analyses.

(2) Any Industrial User or POTW subject to the reporting requirements established in this section (including documentation associated with Best Management Practices) shall be required to retain for a minimum of 3 years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the Director and the Regional Administrator (and POTW in the case of an Industrial User). This period of retention shall be extended during the course of any unresolved litigation regarding the Industrial User or POTW or when requested by the Director or the Regional Administrator.

(3) Any POTW to which reports are submitted by an Industrial User pursuant to paragraphs (b), (d), (e), and (h) of this section shall retain such reports for a minimum of 3 years and shall make such reports available for inspection and copying by the Director and the Regional Administrator. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Industrial User or the operation of the POTW Pretreatment Program or when requested by the Director or the Regional Administrator.

(p)(1) The Industrial User shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the Industrial User discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the Industrial User: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve months. All notifications must take place within 180 days of the effective date of this rule. Industrial users who commence discharging after the effective date of this rule shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR 403.12 (j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of 40 CFR 403.12 (b), (d), and (e).

(2) Dischargers are exempt from the requirements of paragraph (p)(1) of this section during a calendar month in which they discharge no more than fifteen kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification.

Subsequent months during which the Industrial User discharges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the Industrial User must notify the POTW, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(4) In the case of any notification made under paragraph (p) of this section, the Industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(q) *Annual certification by Non-Significant Categorical Industrial Users.* A facility determined to be a Non-Significant Categorical Industrial User pursuant to §403.3(v)(2) must annually submit the following certification statement, signed in accordance with the signatory requirements in paragraph (l) of this section. This certification must accompany any alternative report required by the Control Authority:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR ____, I certify that, to the best of my knowledge and belief that during the period from _____, to _____, ____ [month, days, year]:

(a) The facility described as _____ [facility name] met the definition of a non-significant categorical Industrial User as described in §403.3(v)(2); (b) the facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period. This compliance certification is based upon the following information:

(r) The Control Authority that chooses to receive electronic documents must satisfy the requirements of 40 CFR part 3—(Electronic reporting).

[46 FR 9439, Jan. 28, 1981, as amended at 49 FR 31225, Aug. 3, 1984; 51 FR 20429, June 4, 1986; 53 FR 40613, Oct. 17, 1988; 55 FR 30131, July 24, 1990; 58 FR 18017, Apr. 7, 1993; 60 FR 33932, June 29, 1995; 62 FR 38414, July 17, 1997; 70 FR 59889, Oct. 13, 2005; 70 FR 60195, Oct. 14, 2005; 80 FR 64157 Oct. 22, 2015]

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§403.13 Variances from categorical pretreatment standards for fundamentally different factors.

(a) *Definition.* The term *Requester* means an Industrial User or a POTW or other interested person seeking a variance from the limits specified in a categorical Pretreatment Standard.

(b) *Purpose and scope.* In establishing categorical Pretreatment Standards for existing sources, the EPA will take into account all the information it can collect, develop and solicit regarding the factors relevant to pretreatment standards under section 307(b). In some cases, information which may affect these Pretreatment Standards will not be available or, for other reasons, will not be considered during their development. As a result, it may be necessary on a case-by-case basis to adjust the limits in categorical Pretreatment Standards, making them either more or less stringent, as they apply to a certain Industrial User within an industrial category or subcategory. This will only be done if data specific to that Industrial User indicates it presents factors fundamentally different from those considered by EPA in developing the limit at issue. Any interested person believing that factors relating to an Industrial User are fundamentally different from the factors considered during development of a categorical Pretreatment Standard applicable to that User and further, that the existence of those factors justifies a different discharge limit than specified in the applicable categorical Pretreatment Standard, may request a fundamentally different factors variance under this section or such a variance request may be initiated by the EPA.

(c) *Criteria*—(1) *General criteria.* A request for a variance based upon fundamentally different factors shall be approved only if:

(i) There is an applicable categorical Pretreatment Standard which specifically controls the pollutant for which alternative limits have been requested; and

(ii) Factors relating to the discharge controlled by the categorical Pretreatment Standard are fundamentally different from the factors considered by EPA in establishing the Standards; and

(iii) The request for a variance is made in accordance with the procedural requirements in paragraphs (g) and (h) of this section.

(2) *Criteria applicable to less stringent limits.* A variance request for the establishment of limits less stringent than required by the Standard shall be approved only if:

(i) The alternative limit requested is no less stringent than justified by the fundamental difference;

(ii) The alternative limit will not result in a violation of prohibitive discharge standards prescribed by or established under §403.5;

(iii) The alternative limit will not result in a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the Pretreatment Standards; and

(iv) Compliance with the Standards (either by using the technologies upon which the Standards are based or by using other control alternatives) would result in either:

(A) A removal cost (adjusted for inflation) wholly out of proportion to the removal cost considered during development of the Standards; or

(B) A non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the Standards.

(3) *Criteria applicable to more stringent limits.* A variance request for the establishment of limits more stringent than required by the Standards shall be approved only if:

(i) The alternative limit request is no more stringent than justified by the fundamental difference; and

(ii) Compliance with the alternative limit would not result in either:

(A) A removal cost (adjusted for inflation) wholly out of proportion to the removal cost considered during development of the Standards; or

(B) A non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the Standards.

(d) *Factors considered fundamentally different.* Factors which may be considered fundamentally different are:

(1) The nature or quality of pollutants contained in the raw waste load of the User's process wastewater:

(2) The volume of the User's process wastewater and effluent discharged;

(3) Non-water quality environmental impact of control and treatment of the User's raw waste load;

(4) Energy requirements of the application of control and treatment technology;

(5) Age, size, land availability, and configuration as they relate to the User's equipment or facilities; processes employed; process changes; and engineering aspects of the application of control technology;

(6) Cost of compliance with required control technology.

(e) *Factors which will not be considered fundamentally different.* A variance request or portion of such a request under this section may not be granted on any of the following grounds:

(1) The feasibility of installing the required waste treatment equipment within the time the Act allows;

(2) The assertion that the Standards cannot be achieved with the appropriate waste treatment facilities installed, if such assertion is not based on factors listed in paragraph (d) of this section;

(3) The User's ability to pay for the required waste treatment; or

(4) The impact of a Discharge on the quality of the POTW's receiving waters.

(f) *State or local law.* Nothing in this section shall be construed to impair the right of any state or locality under section 510 of the Act to impose more stringent limitations than required by Federal law.

(g) *Application deadline.* (1) Requests for a variance and supporting information must be submitted in writing to the Director or to the Administrator (or his delegate), as appropriate.

(2) In order to be considered, a request for a variance must be submitted no later than 180 days after the date on which a categorical Pretreatment Standard is published in the FEDERAL REGISTER.

(3) Where the User has requested a categorical determination pursuant to §403.6(a), the User may elect to await the results of the category determination before submitting a variance request under this section. Where the User so elects, he or she must submit the variance request within 30 days after a final decision has been made on the categorical determination pursuant to §403.6(a)(4).

(h) *Contents submission.* Written submissions for variance requests, whether made to the Administrator (or his delegate) or the Director, must include:

(1) The name and address of the person making the request;

(2) Identification of the interest of the Requester which is affected by the categorical Pretreatment Standard for which the variance is requested;

(3) Identification of the POTW currently receiving the waste from the Industrial User for which alternative discharge limits are requested;

(4) Identification of the categorical Pretreatment Standards which are applicable to the Industrial User;

(5) A list of each pollutant or pollutant parameter for which an alternative discharge limit is sought;

(6) The alternative discharge limits proposed by the Requester for each pollutant or pollutant parameter identified in paragraph (h)(5) of this section;

(7) A description of the Industrial User's existing water pollution control facilities;

(8) A schematic flow representation of the Industrial User's water system including water supply, process wastewater systems, and points of Discharge; and

(9) A Statement of facts clearly establishing why the variance request should be approved, including detailed support data, documentation, and evidence necessary to fully evaluate the merits of the request, e.g., technical and economic data collected by the EPA and used in developing each pollutant discharge limit in the Pretreatment Standard.

(i) *Deficient requests.* The Administrator (or his delegate) or the Director will only act on written requests for variances that contain all of the information required. Persons who have made incomplete submissions will be notified by the Administrator (or his delegate) or the Director that their requests are deficient and unless the time period is extended, will be given up to thirty days to remedy the deficiency. If the deficiency is not corrected within the time period allowed by the Administrator (or his delegate) or the Director, the request for a variance shall be denied.

(j) *Public notice.* Upon receipt of a complete request, the Administrator (or his delegate) or the Director will provide notice of receipt, opportunity to review the submission, and opportunity to comment.

(1) The public notice shall be circulated in a manner designed to inform interested and potentially interested persons of the request. Procedures for the circulation of public notice shall include mailing notices to:

(i) The POTW into which the Industrial User requesting the variance discharges;

(ii) Adjoining States whose waters may be affected; and

(iii) Designated 208 planning agencies, Federal and State fish, shellfish and wildlife resource agencies; and to any other person or group who has requested individual notice, including those on appropriate mailing lists.

(2) The public notice shall provide for a period not less than 30 days following the date of the public notice during which time interested persons may review the request and submit their written views on the request.

(3) Following the comment period, the Administrator (or his delegate) or the Director will make a determination on the request taking into consideration any comments received. Notice of this final decision shall be provided to the requester (and the Industrial User for which the variance is requested if different), the POTW into which the Industrial User discharges and all persons who submitted comments on the request.

(k) *Review of requests by state.* (1) Where the Director finds that fundamentally different factors do not exist, he may deny the request and notify the requester (and Industrial User where they are not the same) and the POTW of the denial.

(2) Where the Director finds that fundamentally different factors do exist, he shall forward the request, with a recommendation that the request be approved, to the Administrator (or his delegate).

(l) *Review of requests by EPA.* (1) Where the Administrator (or his delegate) finds that fundamentally different factors do not exist, he shall deny the request for a variance and send a copy of his determination to the Director, to the POTW, and to the requester (and to the Industrial User, where they are not the same).

(2) Where the Administrator (or his delegate) finds that fundamentally different factors do exist, and that a partial or full variance is justified, he will approve the variance. In approving the variance, the Administrator (or his delegate) will:

(i) Prepare recommended alternative discharge limits for the Industrial User either more or less stringent than those prescribed by the applicable categorical Pretreatment Standard to the extent warranted by the demonstrated fundamentally different factors;

(ii) Provide the following information in his written determination:

(A) The recommended alternative discharge limits for the Industrial User concerned;

(B) The rationale for the adjustment of the Pretreatment Standard (including the reasons for recommending that the variance be granted) and an explanation of how the recommended alternative discharge limits were derived;

(C) The supporting evidence submitted to the Administrator (or his delegate); and

(D) Other information considered by the Administrator (or his delegate) in developing the recommended alternative discharge limits;

(iii) Notify the Director and the POTW of his or her determination; and

(iv) Send the information described in paragraphs (l)(2) (i) and (ii) of this section to the Requestor (and to the Industrial User where they are not the same).

(m) *Request for hearing.* (1) Within 30 days following the date of receipt of the notice of the decision of the Administrator's delegate on a variance request, the requester or any other interested person may submit a petition to the Regional Administrator for a hearing to reconsider or contest the decision. If such a request is submitted by a person other than the Industrial User the person shall simultaneously serve a copy of the request on the Industrial User.

(2) If the Regional Administrator declines to hold a hearing and the Regional Administrator affirms the findings of the Administrator's delegate the requester may submit a petition for a hearing to the Environmental Appeals Board (which is described in §1.25 of this title) within 30 days of the Regional Administrator's decision.

[46 FR 9439, Jan. 28, 1981, as amended at 49 FR 5132, Feb. 10, 1984; 50 FR 38811, Sept. 25, 1985; 51 FR 16030, Apr. 30, 1986; 54 FR 258, Jan. 4, 1989; 57 FR 5347, Feb. 13, 1992; 58 FR 18017, Apr. 7, 1993; 60 FR 33932, June 29, 1995; 70 FR 60198, Oct. 14, 2005]

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§403.14 Confidentiality.

(a) *EPA authorities.* In accordance with 40 CFR part 2, any information submitted to EPA pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions, or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR part 2 (Public Information).

(b) *Effluent data.* Information and data provided to the Control Authority pursuant to this part which is effluent data shall be available to the public without restriction.

(c) *State or POTW.* All other information which is submitted to the State or POTW shall be available to the public at least to the extent provided by 40 CFR 2.302.

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§403.15 Net/Gross calculation.

(a) *Application.* Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the Control Authority. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (*i.e.*, adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (b) of this section are met.

(b) *Criteria.* (1) Either:

(i) The applicable categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or

(ii) The Industrial User demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.

(2) Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

(3) Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this section.

(4) Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The Control Authority may waive this requirement if it finds that no environmental degradation will result.

[70 FR 60198, Oct. 14, 2005]

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§403.16 Upset provision.

(a) *Definition.* For the purposes of this section, *Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) *Effect of an upset.* An Upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (c) are met.

(c) *Conditions necessary for a demonstration of upset.* An Industrial User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An Upset occurred and the Industrial User can identify the cause(s) of the Upset;

(2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;

(3) The Industrial User has submitted the following information to the POTW and Control Authority within 24 hours of becoming aware of the Upset (if this information is provided orally, a written submission must be provided within five days):

(i) A description of the Indirect Discharge and cause of noncompliance;

(ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;

(iii) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(d) *Burden of proof.* In any enforcement proceeding the Industrial User seeking to establish the occurrence of an Upset shall have the burden of proof.

(e) *Reviewability of agency consideration of claims of upset.* In the usual exercise of prosecutorial discretion, Agency enforcement personnel should review any claims that non-compliance was caused by an Upset. No determinations made in the course of the review constitute final Agency action subject to judicial review. Industrial Users will have the opportunity for a judicial determination on any claim of Upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.

(f) *User responsibility in case of upset.* The Industrial User shall control production or all Discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

[46 FR 9439, Jan. 28, 1981, as amended at 53 FR 40615, Oct. 17, 1988]

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§403.17 Bypass.

(a) *Definitions.* (1) *Bypass* means the intentional diversion of wastestreams from any portion of an Industrial User's treatment facility.

(2) *Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) *Bypass not violating applicable Pretreatment Standards or Requirements.* An Industrial User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (c) and (d) of this section.

(c) *Notice.* (1) If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority, if possible at least ten days before the date of the bypass.

(2) An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the Control Authority within 24 hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate,

and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(d) *Prohibition of bypass.* (1) Bypass is prohibited, and the Control Authority may take enforcement action against an Industrial User for a bypass, unless;

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(iii) The Industrial User submitted notices as required under paragraph (c) of this section.

(2) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in paragraph (d)(1) of this section.

[53 FR 40615, Oct. 17, 1988, as amended at 58 FR 18017, Apr. 7, 1993]

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§403.18 Modification of POTW pretreatment programs.

(a) *General.* Either the Approval Authority or a POTW with an approved POTW Pretreatment Program may initiate program modification at any time to reflect changing conditions at the POTW. Program modification is necessary whenever there is a significant change in the operation of a POTW Pretreatment Program that differs from the information in the POTW's submission, as approved under §403.11.

(b) *Substantial modifications defined.* Substantial modifications include:

(1) Modifications that relax POTW legal authorities (as described in §403.8(f)(1)), except for modifications that directly reflect a revision to this part 403 or to 40 CFR chapter I, subchapter N, and are reported pursuant to paragraph (d) of this section;

(2) Modifications that relax local limits, except for the modifications to local limits for pH and reallocations of the Maximum Allowable Industrial Loading of a pollutant that do not increase the total industrial loadings for the pollutant, which are reported pursuant to paragraph (d) of this section. Maximum Allowable Industrial Loading means the total mass of a pollutant that all Industrial Users of a POTW (or a subgroup of Industrial Users identified by the POTW) may discharge pursuant to limits developed under §403.5(c);

(3) Changes to the POTW's control mechanism, as described in §403.8(f)(1)(iii);

(4) A decrease in the frequency of self-monitoring or reporting required of industrial users;

(5) A decrease in the frequency of industrial user inspections or sampling by the POTW;

(6) Changes to the POTW's confidentiality procedures; and

(7) Other modifications designated as substantial modifications by the Approval Authority on the basis that the modification could have a significant impact on the operation of the POTW's Pretreatment Program; could result in an increase in pollutant loadings at the POTW; or could result in less stringent requirements being imposed on Industrial Users of the POTW.

(c) *Approval procedures for substantial modifications.* (1) The POTW shall submit to the Approval Authority a statement of the basis for the desired program modification, a modified program description (see §403.9(b)), or such other documents the Approval Authority determines to be necessary under the circumstances.

(2) The Approval Authority shall approve or disapprove the modification based on the requirements of §403.8(f) and using the procedures in §403.11(b) through (f), except as provided in paragraphs (c) (3) and (4) of this section. The modification shall become effective upon approval by the Approval Authority.

(3) The Approval Authority need not publish a notice of decision under §403.11(e) provided: The notice of request for approval under §403.11(b)(1) states that the request will be approved if no comments are received by a date specified in the notice; no substantive comments are received; and the request is approved without change.

(4) Notices required by §403.11 may be performed by the POTW provided that the Approval Authority finds that the POTW notice otherwise satisfies the requirements of §403.11.

(d) *Approval procedures for non-substantial modifications.* (1) The POTW shall notify the Approval Authority of any non-substantial modification at least 45 days prior to implementation by the POTW, in a statement similar to that provided for in paragraph (c)(1) of this section.

(2) Within 45 days after the submission of the POTW's statement, the Approval Authority shall notify the POTW of its decision to approve or disapprove the non-substantial modification.

(3) If the Approval Authority does not notify the POTW within 45 days of its decision to approve or deny the modification, or to treat the modification as substantial under paragraph (b)(7) of this section, the POTW may implement the modification.

(e) *Incorporation in permit.* All modifications shall be incorporated into the POTW's NPDES permit upon approval. The permit will be modified to incorporate the approved modification in accordance with 40 CFR 122.63(g).

[62 FR 38414, July 17, 1997]

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§403.19 Provisions of specific applicability to the Owatonna Waste Water Treatment Facility.

(a) For the purposes of this section, the term "Participating Industrial Users" includes the following Industrial Users in the City of Owatonna, Minnesota: Crown Cork and Seal Company, Inc.; Cybex International Inc.; Josten's Inc.—Southtown Facility; SPx Corporation, Service Solutions Division; Truth Hardware Corporation; and Uber Tanning Company.

(b) For a Participating Industrial User discharging to the Owatonna Waste Water Treatment Facility in Owatonna, Minnesota, when a categorical Pretreatment Standard is expressed in terms of pollutant concentration the City of Owatonna may convert the limit to a mass limit by multiplying the five-year, long-term average process flows of the Participating Industrial User (or a shorter period if production has significantly increased or decreased during the five year period) by the concentration-based categorical Pretreatment Standard. Participating Industrial Users must notify the City in the event production rates are expected to vary by more than 20 percent from a baseline production rate determined by Owatonna when it establishes a Participating Industrial User's initial mass limit. To remain eligible to receive equivalent mass limits the Participating Industrial User must maintain at least the same level of treatment as at the time the equivalent mass limit is established. Upon notification of a revised production rate from a Participating Industrial User, the City will reassess the appropriateness of the mass limit. Owatonna shall reestablish the concentration-based limit if a Participating Industrial User does not maintain at least the same level of treatment as when the equivalent mass limit was established.

(c) If a categorical Participating Industrial User of the Owatonna Waste Water Treatment Facility has demonstrated through sampling and other technical factors, including a comparison of three years of effluent data with background data, that pollutants regulated through categorical Pretreatment Standards, other than 40 CFR part 414, are not expected to be present in quantities greater than the background influent concentration to the industrial process, the City of Owatonna may reduce the sampling frequency specified in §403.8(f)(2)(v) to once during the term of the categorical Participating Industrial User's permit.

(d) If a Participating Industrial User is discharging to the Owatonna Waste Water Treatment Facility in Owatonna, Minnesota and is subject to a categorical Pretreatment Standard other than one codified at 40 CFR part 414, the City of Owatonna may authorize the Participating Industrial User to forego sampling of a pollutant if the Participating Industrial User has demonstrated through sampling and other technical factors, including a comparison of three years of effluent data with background data, that the pollutant is not expected to be present in quantities greater than the background influent concentration to the industrial process, and the Participating Industrial User certifies on each report, with the following statement, that there has been no increase in the pollutant in its wastestream due to activities of the Participating Industrial User. The following statement is to be included as a comment to the periodic reports required by §403.12(e):

"Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for 40 CFR ___, I certify that, to the best of my knowledge and belief, the raw materials, industrial processes, and potential by-products have not contributed this pollutant to the wastewaters since filing of the last periodic report under 40 CFR 403.12(e)."

(e) If the average daily loading from the Participating Industrial Users to the Owatonna Waste Water Treatment Facility is equal to or less than 0.68 pounds per day of chromium, 0.25 pounds per day of copper, 1.17 pounds per day of nickel, and 1.01 pounds per day of zinc, Owatonna may authorize a categorical Participating Industrial User to satisfy the reporting requirements of §403.12(e) with an annual report provided on a date specified by Owatonna, provided that the Participating Industrial User has no reasonable potential to violate a Pretreatment Standard for any pollutant for which reduced monitoring is being allowed, and has not been in Significant Noncompliance within the previous three years.

(f) The Owatonna Waste Water Treatment Facility in Owatonna, Minnesota shall post public notice of all Significant Noncompliance subject to the publication requirement in §403.8(f)(2)(vii) at the Minnesota Pollution Control Agency website for

a period of one year, as soon as practicable upon identifying the violations. In addition, the Owatonna Waste Water Treatment Facility shall post an explanation of how Significant Noncompliance is determined, and a contact name and phone number for information regarding other, non-Significant Noncompliance violations. If a violation is not corrected within thirty (30) calendar days or results in pass through or interference at the Owatonna Waste Water Treatment Facility, publication must also be made in the format specified in §403.8(f)(2)(vii).

(g) The provisions of this section shall expire on October 6, 2005.

[65 FR 59747, Oct. 6, 2000]

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§403.20 Pretreatment Program Reinvention Pilot Projects Under Project XL.

The Approval Authority may allow any publicly owned treatment works (POTW) that has a final “Project XL” agreement to implement a Pretreatment Program that includes legal authorities and requirements that are different than the administrative requirements otherwise applicable under this part. The POTW must submit any such alternative requirements as a substantial program modification in accordance with the procedures outlined in §403.18. The approved modified program must be incorporated as an enforceable part of the POTW's NPDES permit. The Approval Authority must include a reopener clause in the POTW's NPDES permit that directs the POTW to discontinue implementing the approved alternative requirements and resume implementation of its previously approved pretreatment program if the Approval Authority determines that the primary objectives of the Local Pilot Pretreatment Program are not being met or the “Project XL” agreement expires or is otherwise terminated.

[66 FR 50339, Oct. 3, 2001]

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Appendixes A-C to Part 403 [Reserved]

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Appendix D to Part 403—Selected Industrial Subcategories Considered Dilute for Purposes of the Combined Wastestream Formula

The following industrial subcategories are considered to have dilute wastestreams for purposes of the combined wastestream formula. They either were or could have been excluded from categorical pretreatment standards pursuant to paragraph 8 of the Natural Resources Defense Council, Inc., et al. v. Costle Consent Decree for one or more of the following four reasons: (1) The pollutants of concern are not detectable in the effluent from the industrial user (paragraph 8(a)(iii)); (2) the pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects (paragraph 8(a)(iii)); (3) the pollutants of concern are present in amounts too small to be effectively reduced by technologies known to the Administrator (paragraph 8(a)(iii)); or (4) the wastestream contains only pollutants which are compatible with the POTW (paragraph 8(b)(i)). In some instances, different rationales were given for exclusion under paragraph 8. However, EPA has reviewed these subcategories and has determined that exclusion could have occurred due to one of the four reasons listed above.

This list is complete as of October 9, 1986. It will be updated periodically for the convenience of the reader.

Auto and Other Laundries (40 CFR part 444)

Carpet and Upholstery Cleaning

Coin-Operated Laundries and Dry Cleaning

Diaper Services

Dry Cleaning Plants except Rug Cleaning

Industrial Laundries

Laundry and Garment Services, Not Elsewhere Classified

Linen Supply

Power Laundries, Family and Commercial

*Electrical and Electronic Components*¹ (40 CFR part 469)

¹The Paragraph 8 exemption for the manufacture of products in the Electrical and Electronic Components Category is for operations not covered by Electroplating/Metal Finishing pretreatment regulations (40 CFR parts 413/433).

Capacitors (Fluid Fill)

Carbon and Graphite Products

Dry Transformers

Ferrite Electronic Devices

Fixed Capacitors

Fluorescent Lamps

Fuel Cells

Incandescent Lamps

Magnetic Coatings

Mica Paper Dielectric

Motors, Generators, Alternators

Receiving and Transmitting Tubes

Resistance Heaters

Resistors

Switchovergear

Transformer (Fluid Fill)

Metal Molding and Casting (40 CFR part 464)

Nickel Casting

Tin Casting

Titanium Casting

Gum and Wood Chemicals (40 CFR part 454)

Char and Charcoal Briquets

Inorganic Chemicals Manufacturing (40 CFR part 415)

Ammonium Chloride

Ammonium Hydroxide

Barium Carbonate

Calcium Carbonate

Carbon Dioxide

Carbon Monoxide and Byproduct Hydrogen

Hydrochloric Acid

Hydrogen Peroxide (Organic Process)

Nitric Acid

Oxygen and Nitrogen

Potassium Iodide

Sodium Chloride (Brine Mining Process)

Sodium Hydrosulfide

Sodium Hydrosulfite

Sodium Metal

Sodium Silicate

Sodium Thiosulfate

Sulfur Dioxide

Sulfuric Acid

Leather (40 CFR part 425)

Gloves

Luggage

Paving and Roofing (40 CFR part 443)

Asphalt Concrete

Asphalt Emulsion

Linoleum

Printed Asphalt Felt

Roofing

Pulp, Paper, and Paperboard, and Builders' Paper and Board Mills (40 CFR parts 430 and 431)

Groundwood-Chemi-Mechanical

Rubber Manufacturing (40 CFR part 428)

Tire and Inner Tube Plants

Emulsion Crumb Rubber

Solution Crumb Rubber

Latex Rubber

Small-sized General Molded, Extruded and Fabricated Rubber Plants,²

²Footnote: Except for production attributed to lead-sheathed hose manufacturing operations.

Medium-sized General Molded, Extruded and Fabricated Rubber Plants²

Large-sized General Molded, Extruded and Fabricated Rubber Plants²

Wet Digestion Reclaimed Rubber

Pan, Dry Digestion, and Mechanical Reclaimed Rubber

Latex Dipped, Latex-Extruded, and Latex-Molded Rubber³

³Footnote: Except for production attributed to chromic acid form-cleaning operations.

Latex Foam⁴

⁴Footnote: Except for production that generates zinc as a pollutant in discharge.

Soap and Detergent Manufacturing (40 CFR part 417)

Soap Manufacture by Batch Kettle

Fatty Acid Manufacture by Fat Splitting

Soap Manufacture by Fatty Acid

Neutralization

Glycerine Concentration

Glycerine Distillation

Manufacture of Soap Flakes and Powders

Manufacture of Bar Soaps

Manufacture of Liquid Soaps

Manufacture of Spray Dried Detergents

Manufacture of Liquid Detergents

Manufacture of Dry Blended Detergents

Manufacture of Drum Dried Detergents

Manufacture of Detergent Bars and Cakes

Textile Mills (40 CFR part 410)

Apparel manufacturing

Cordage and Twine

Padding and Upholstery Filling

Timber Products Processing (40 CFR part 429)

Barking Process

Finishing Processes

Hardboard—Dry Process

[51 FR 36372, Oct. 9, 1986]

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Appendix E to Part 403—Sampling Procedures

I. COMPOSITE METHOD

A. It is recommended that influent and effluent operational data be obtained through 24-hour flow proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. If discrete sampling is employed, at least 12 aliquots should be composited. Discrete sampling may be flow proportioned either by varying the time interval between each aliquot or the volume of each aliquot. All composites should be flow proportional to either the stream flow at the time of collection of the influent aliquot or to the total influent flow since the previous influent aliquot. Volatile pollutant aliquots must be combined in the laboratory immediately before analysis.

B. Effluent sample collection need not be delayed to compensate for hydraulic detention unless the POTW elects to include detention time compensation or unless the Approval Authority requires detention time compensation. The Approval Authority may require that each effluent sample is taken approximately one detention time later than the corresponding influent sample when failure to do so would result in an unrepresentative portrayal of actual POTW operation. The detention period should be based on a 24-hour average daily flow value. The average daily flow should in turn be based on the average of the daily flows during the same month of the previous year.

II. GRAB METHOD

If composite sampling is not an appropriate technique, grab samples should be taken to obtain influent and effluent operational data. A grab sample is an individual sample collected over a period of time not exceeding 15 minutes. The collection of influent grab samples should precede the collection of effluent samples by approximately one detention period except that where the detention period is greater than 24 hours such staggering of the sample collection may not be necessary or appropriate. The detention period should be based on a 24-hour average daily flow value. The average daily flow should in turn be based upon the average of the daily flows during the same month of the previous year. Grab sampling should be employed where the pollutants being evaluated are those, such as cyanide and phenol, which may not be held for an extended period because of biological, chemical or physical interaction which take place after sample collection and affect the results.

[49 FR 31225, Aug. 3, 1984]

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Appendix F to Part 403 [Reserved]

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Appendix G to Part 403—Pollutants Eligible for a Removal Credit

I. REGULATED POLLUTANTS IN PART 503 ELIGIBLE FOR A REMOVAL CREDIT

Pollutants	Use or disposal practice		
	LA	SD	I
Arsenic	X	X	X
Beryllium			X
Cadmium	X		X
Chromium		X	X
Copper	X		
Lead	X		X
Mercury	X		X
Molybdenum	X		
Nickel	X	X	X
Selenium	X		
Zinc	X		
Total hydrocarbons			X ¹

Key:

LA—land application.

SD—surface disposal site without a liner and leachate collection system.

I—firing of sewage sludge in a sewage sludge incinerator.

¹The following organic pollutants are eligible for a removal credit if the requirements for total hydrocarbons (or carbon monoxide) in subpart E in 40 CFR part 503 are met when sewage sludge is fired in a sewage sludge incinerator: Acrylonitrile, Idrin/Dieldrin(total), Benzene, Benzo(a)pyrene, Bis(2-chloroethyl)ether, Bis(2-ethylhexyl)phthalate, Bromodichloromethane, Bromoethane, Bromoform, Carbon tetrachloride, Chlordane, Chloroform, Chloromethane, DDD, DDE, DDT, Dibromochloromethane, Dibutyl phthalate, 1,2-dichloroethane, 1,1-dichloroethylene, 2,4-dichlorophenol, 1,3-dichloropropene, Diethyl phthalate, 2,4-dinitrophenol, 1,2-diphenylhydrazine, Din-butyl phthalate, Endosulfan, Endrin, Ethylbenzene, Heptachlor, Heptachlor epoxide, Hexachlorobutadiene, Alpha-hexachlorocyclohexane, Beta-hexachlorocyclohexane, Hexachlorocyclopentadiene, Hexachloroethane, Hydrogen cyanide, Isophorone, Lindane, Methylene chloride, Nitrobenzene, N-Nitrosodimethylamine, N-Nitrosodi-n-propylamine, Pentachlorophenol, Phenol, Polychlorinated biphenyls, 2,3,7,8-tetrachlorodibenzo-p-dioxin, 1,1,2,2-tetrachloroethane, Tetrachloroethylene, Toluene, Toxaphene, Trichloroethylene, 1,2,4-Trichlorobenzene, 1,1,1-Trichloroethane, 1,1,2-Trichloroethane, and 2,4,6-Trichlorophenol.

II. ADDITIONAL POLLUTANTS ELIGIBLE FOR A REMOVAL CREDIT

[Milligrams per kilogram—dry weight basis]

Pollutant	Use or disposal practice		
	LA	Surface disposal	I
		Unlined ¹	Lined ²
Arsenic			³ 100
Aldrin/Dieldrin (Total)	2.7		
Benzene	³ 16	140	3400
Benzo(a)pyrene	15	³ 100	³ 100
Bis(2-ethylhexyl)phthalate		³ 100	³ 100
Cadmium		³ 100	³ 100
Chlordane	86	³ 100	³ 100
Chromium (total)	³ 100		³ 100
Copper		³ 46	100
DDD, DDE, DDT (Total)	1.2	2000	2000
2,4 Dichlorophenoxy-acetic acid		7	7
Fluoride	730		
Heptachlor	7.4		
Hexachlorobenzene	29		
Hexachlorobutadiene	600		
Iron	³ 78		
Lead		³ 100	³ 100
Lindane	84	³ 28	³ 28

Malathion		0.63	0.63	
Mercury		³ 100	³ 100	
Molybdenum		40	40	
Nickel			³ 100	
N-Nitrosodimethylamine	2.1	0.088	0.088	
Pentachlorophenol	30			
Phenol		82	82	
Polychlorinated biphenyls	4.6	<50	<50	
Selenium		4.8	4.8	4.8
Toxaphene	10	³ 26	³ 26	
Trichloroethylene	³ 10	9500	³ 10	
Zinc		4500	4500	4500

¹Active sewage sludge unit without a liner and leachate collection system.

²Active sewage sludge unit with a liner and leachate collection system.

³Value expressed in grams per kilogram—dry weight basis.

KEY: LA—land application.

I—incineration.

[60 FR 54768, Oct. 25, 1995, as amended at 65 FR 42567, Aug. 4, 1999; 70 FR 60198, Oct. 14, 2005]

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APPENDIX B – Local Limits Evaluation

Metals Conversion Calculator

Permit Name: LanzaTech Freedom Pines Biorefinery
Pretreatment Permit No.: GAP050299

Stream Data:

Receiving stream Hardness: **25** mg/L
Upstream TSS: **10** mg/L
7Q10: **0.00** ft³/s
0 gal/day
1Q10: **0.00** ft³/s
0 gal/day

POTW Effluent Data:

Flow: **405,000** gal/day
TSS: **5.04** mg/L
Instream TSS: 5.04 mg/L

Acute Water Quality Criteria (WQC_{Acute})

Metal	K _{PO}	α	f _D	Total Recoverable WQC _{Acute} (μg/L)	Dissolved WQC _{Acute} (μg/L)
Arsenic	4.80.E+05	-0.729	0.573	593.14	340.00
Cadmium	4.00.E+06	-1.131	0.236	2.21	0.52
Chromium III	3.36.E+06	-0.930	0.210	871.46	183.07
Chromium VI	3.36.E+06	-0.930	0.210	76.17	16.00
Copper	1.04.E+06	-0.744	0.388	9.37	3.64
Lead	2.80.E+06	-0.800	0.205	67.60	13.88
Mercury	NA	NA	NA	1.40	1.40
Nickel	4.90.E+05	-0.572	0.505	286.83	144.92
Zinc	1.25.E+06	-0.704	0.331	109.27	36.20

$$f_D = \frac{1}{1 + K_{PO} \times TSS_{Instream} (mg/L)^{(1+\alpha)} \times 10^{-6}}$$

Chronic Water Quality Criteria (WQC_{Chronic})

Metal	K _{PO}	α	f _D	Total Recoverable WQC _{Acute} (μg/L)	Dissolved WQC _{Acute} (μg/L)
Arsenic	4.80.E+05	-0.729	0.573	261.68	150.00
Cadmium	4.00.E+06	-1.131	0.236	0.397	0.09
Chromium III	3.36.E+06	-0.930	0.210	113.36	23.81
Chromium VI	3.36.E+06	-0.930	0.210	52.36	11.00
Copper	1.04.E+06	-0.744	0.388	7.052	2.74
Lead	2.80.E+06	-0.800	0.205	2.634	0.54
Mercury	NA	NA	NA	0.012	0.012
Nickel	4.90.E+05	-0.572	0.505	31.858	16.10
Zinc	1.25.E+06	-0.704	0.331	110.16	36.50
Selenium	NA	NA	NA	5.00	5.00

$$f_D = \frac{1}{1 + K_{PO} \times TSS_{Instream} (mg/L)^{(1+\alpha)} \times 10^{-6}}$$

NOTES:

*Water Quality Criteria (WQC) from State of Georgia Rules and Regulations 391-3-6-.03.

Primary Treatment

	Local Limits Determination Based on NPDES Daily Effluent Limits					TABLE	1						
	ENVIRONMENTAL CRITERIA AND PROCESS DATA BASE						MAXIMUM LOADING			INDUSTRIAL			
Pollutant	IU Pollut. Flow (MGD) (Qind)	POTW Flow (MGD) (Qpotw)	Removal Efficiency (%) (Rpotw)	NPDES Daily Limit (mg/l) (Ccrit)	Domestic and Conc. (mg/l) (Cdom)	Commercial Flow (MGD) (Qdom)	Allowable Headworks (lbs/day) (Lhw)	Domestic/ Commercial (lbs/day) (Ldom)	Allowable Loading (lbs/day) (Lind)	Local Limit (mg/l) (Cind)	Safety Factor (%) (SF)		
Ammonia-N	0.1	0.506	90	2.3	30	0.406	97.06092	101.5812	-14.22637	-17.058	10		
Arsenic													
BOD	0.1	0.506	97.7	12	369.63	0.406	2201.76	1251.58197	730.00203	875.3022	10		
Cadmium													
Chromium													
Hex. Chrom.													
COD													
Copper													
Cyanide													
Lead													
Mercury													
Nickel													
Oil & Grease													
Phosphorus													
Silver													
TSS	0.1	0.506	93	45	414.96	0.406	2712.882857	1405.07116	1036.5234	1242.8338	10		
TTO													
Zinc													
(Qind)	Industrial User total plant discharge flow in Million Gallons per Day (MGD) that contains a particular pollutant.												
(Qpotw)	POTW's average influent flow in MGD. (Based on DMR's data - 2018 & 2019)												
(Rpotw)	Removal efficiency across POTW as percent. (underline indicates removal efficiency based on actual POTW removal data)												
(Ccrit)	NPDES daily maximum permit limit for a particular pollutant in mg/l.												
(Qdom)	Domestic/commercial background flow in MGD.												
(Cdom)	Domestic/commercial background concentration for a particular pollutant in mg/l.												
(Lhw)	Maximum allowable headworks pollutant loading to the POTW in pounds per day (lbs/day).												
(Ldom)	Domestic/commercial background loading to the POTW for a particular pollutant in pounds per day (lbs/day).												
(Lind)	Maximum allowable industrial loading to the POTW in pounds per day.												
(Cind)	Industrial allowable local limit for a given pollutant in mg/l.												
(SF)	Safety factor as a percent.												
8.34	Unit conversion factor												
Lhw =	8.34 * Ccrit * Qpotw												
	1 - Rpotw												
..													

Primary Treatment

	Local Limits Determination Based on NPDES Monthly Effluent Limits						2									
	ENVIRONMENTAL CRITERIA AND PROCESS DATA BASE						MAXIMUM LOADING			INDUSTRIAL						
	IU Pollut.	POTW	Removal	NPDES	Domestic and	Commercial	Allowable	Domestic/	Allowable	Local	Safety					
Pollutant	Flow	Flow	Efficiency	Monthly Limit	Conc.	Flow	Headworks	Commercial	Loading	Limit	Factor					
	(MGD)	(MGD)	(%)	(mg/l)	(mg/l)	(MGD)	(lbs/day)	(lbs/day)	(lbs/day)	(mg/l)	(%)					
	(Qind)	(Qpotw)	(Rpotw)	(Ccrit)	(Cdom)	(Qdom)	(Lhw)	(Ldom)	(Lind)	(Cind)	(SF)					
Ammonia-N	0.1	0.405	90	1.5	30	0.305	50.6655	76.311	-30.71205	-36.825	10					
Arsenic																
BOD	0.1	0.405	97.7	8	246.38	0.305	1174.852174	626.716806	430.65015	516.36709	10					
Cadmium																
Chromium																
Hex. Chrom.																
COD																
Copper																
Cyanide																
Lead																
Mercury																
Nickel																
Oil & Grease																
Phosphorus																
Silver																
TSS	0.1	0.405	93	30	276.79	0.305	1447.585714	704.070723	598.75642	717.93336	10					
TTO																
Zinc																
(Qind)	Industrial User total plant discharge flow in Million Gallons per Day (MGD) that contains a particular pollutant.															
(Qpotw)	POTW's average influent flow in MGD. (Based on DMR's data - 2018 & 2019)															
(Rpotw)	Removal efficiency across POTW as percent. (underline indicates removal efficiency based on actual POTW removal data)															
(Ccrit)	NPDES monthly maximum permit limit for a particular pollutant in mg/l.															
(Qdom)	Domestic/commercial background flow in MGD.															
(Cdom)	Domestic/commercial background concentration for a particular pollutant in mg/l.															
(Lhw)	Maximum allowable headworks pollutant loading to the POTW in pounds per day (lbs/day).															
(Ldom)	Domestic/commercial background loading to the POTW for a particular pollutant in pounds per day (lbs/day).															
(Lind)	Maximum allowable industrial loading to the POTW in pounds per day.															
(Cind)	Industrial allowable local limit for a given pollutant in mg/l.															
(SF)	Safety factor as a percent.															
8.34	Unit conversion factor															
Lhw =	8.34 * Ccrit * Qpotw															
	1 - Rpotw															
..																

Primary Treatment

[illegible]

Primary Treatment

Local Limits Determination Based on Nitrification Inhibition Level							TABLE	4						
ENVIRONMENTAL CRITERIA AND PROCESS DATA BASE							MAXIMUM LOADING		INDUSTRIAL					
Pollutant	IU Pollut. (MGD) (Qind)	POTW (MGD) (Qpotw)	Removal Efficiency (%) (Rsec)	Nitrification Inhibition Level (mg/l) (Ccrit)	Domestic and Conc. (mg/l) (Cdom)	Commercial Flow (MGD) (Qdom)	Allowable Headworks (lbs/day) (Lhw)	Domestic/ Commercial (lbs/day) (Ldom)	Allowable Loading (lbs/day) (Lind)	Local Limit (mg/l) (Cind)	Safety Factor (%) (SF)			
Ammonia-N														
Arsenic														
BOD														
Cadmium														
Chromium														
Hex. Chrom.														
COD														
Copper														
Cyanide														
Lead														
Mercury														
Nickel	0.1	0.405	42	0.25	0.047	0.305	1.455905172	0.1195539	1.1907608	1.4277707	10			
Oil & Grease														
Phosphorus														
Silver														
TSS														
TTO														
Zinc	0.1	0.405	79	0.08	0.231	0.305	1.286742857	0.5875947	0.5704739	0.6840214	10			
(Qind)	Industrial User total plant discharge flow in Million Gallons per Day (MGD) that contains a particular pollutant.													
(Qpotw)	POTW's average influent flow in MGD.													
(Rsec)	Removal efficiency across primary treatment and secondary treatment as percent.													
(Ccrit)	Nitrification threshold inhibition level, mg/l.													
(Qdom)	Domestic/commercial background flow in MGD.													
(Cdom)	Domestic/commercial background concentration for a particular pollutant in mg/l.													
(Lhw)	Maximum allowable headworks pollutant loading to the POTW in pounds per day (lbs/day).													
(Ldom)	Domestic/commercial background loading to the POTW for a particular pollutant in pounds per day (lbs/day).													
(Lind)	Maximum allowable industrial loading to the POTW in pounds per day.													
(Cind)	Industrial allowable local limit for a given pollutant in mg/l.													
(SF)	Safety factor as a percent.													
8.34	Unit conversion factor													
Lhw =	8.34 * Ccrit * Qpotw 1 - Rsec													
::														

Primary Treatment

Local Limits Determination Based on USEPA 503 Sludge Regulations - N/A							5						
ENVIRONMENTAL CRITERIA AND PROCESS DATA BASE									MAXIMUM LOADING		INDUSTRIAL		
Pollutant	IU Pollut. Flow (MGD) (Qind)	POTW Flow (MGD) (Qpotw)	Sludge Flow (MGD) (Qsldg)	Percent Solids (%) (PS)	Removal Efficiency (%) (Rpotw)	503 Sludge Criteria (mg/kg)	Domestic and Conc. (mg/l) (Cdom)	Commercial Flow (MGD) (Qdom)	Allowable Headworks (lbs/day) (Lhw)	Domestic/ Commercial (lbs/day) (Ldom)	Allowable Loading (lbs/day) (Lind)	Local Limit (mg/l) (Cind)	Safety Factor (%) (SF)
Ammonia-N													
Arsenic													
BOD													
Cadmium													
Chromium													
Hex. Chrom.													
COD													
Copper													
Cyanide													
Lead													
Mercury													
Nickel													
Oil & Grease													
Phosphorus													
Silver													
TSS													
TTO													
Zinc													
(Qind)	Industrial User total plant discharge flow in Million Gallons per Day (MGD) that contains a particular pollutant.												
(Qpotw)	POTW's average influent flow in MGD.												
(Qsldg)	Sludge flow to disposal in MGD.												
(PS)	Percent solids of sludge to disposal.												
(Rpotw)	Removal efficiency across POTW as a percent.												
(Cslcrit)	503 sludge criteria in mg/kg dry sludge.												
(Qdom)	Domestic/commercial background flow in MGD.												
(Cdom)	Domestic/commercial background concentration for a particular pollutant in mg/l.												
(Lhw)	Maximum allowable headworks pollutant loading to the POTW in pounds per day (lbs/day).												
(Ldom)	Domestic/commercial background loading to the POTW for a particular pollutant in pounds per day (lbs/day).												
(Lind)	Maximum allowable industrial loading to the POTW in pounds per day.												
(Cind)	Industrial allowable local limit for a given pollutant in mg/l.												
(SF)	Safety factor as a percent.												
8.34	Unit conversion factor												
Lhw =	8.34 * Cslcrit * (PS/100) * Qsldg												
	Rpotw												
::													

Primary Treatment

Local Limits Determination Based on State Sludge Criteria - N/A							6						
ENVIRONMENTAL CRITERIA AND PROCESS DATA BASE									MAXIMUM LOADING		INDUSTRIAL		
Pollutant	IU Pollut. Flow (MGD) (Qind)	POTW Flow (MGD) (Qpotw)	Sludge Flow (MGD) (Qsldg)	Percent Solids (%) (PS)	Removal Efficiency (%) (Rpotw)	State Sludge Criteria (mg/kg) (Cslcrit)	Domestic and Conc. (mg/l) (Cdom)	Commercial Flow (MGD) (Qdom)	Allowable Headworks (lbs/day) (Lhw)	Domestic/ Commercial (lbs/day) (Ldom)	Allowable Loading (lbs/day) (Lind)	Local Limit (mg/l) (Cind)	Safety Factor (%) (SF)
Ammonia-N													
Arsenic													
BOD													
Cadmium													
Chromium													
Hex. Chrom.													
COD													
Copper													
Cyanide													
Lead													
Mercury													
Nickel													
Oil & Grease													
Phosphorus													
Silver													
TSS													
TTO													
Zinc													
(Qind)	Industrial User total plant discharge flow in Million Gallons per Day (MGD) that contains a particular pollutant.												
(Qpotw)	POTW's average influent flow in MGD.												
(Qsldg)	Sludge flow to disposal in MGD.												
(PS)	Percent solids of sludge to disposal.												
(Rpotw)	Removal efficiency across POTW as a percent.												
(Cslcrit)	State sludge criteria in mg/kg dry sludge.												
(Qdom)	Domestic/commercial background flow in MGD.												
(Cdom)	Domestic/commercial background concentration for a particular pollutant in mg/l.												
(Lhw)	Maximum allowable headworks pollutant loading to the POTW in pounds per day (lbs/day).												
(Ldom)	Domestic/commercial background loading to the POTW for a particular pollutant in pounds per day (lbs/day).												
(Lind)	Maximum allowable industrial loading to the POTW in pounds per day.												
(Cind)	Industrial allowable local limit for a given pollutant in mg/l.												
(SF)	Safety factor as a percent.												
8.34	Unit conversion factor												
Lhw =	8.34 * Cslcrit * (PS/100) * Qsldg												
	Rpotw												
::													

Primary Treatment

	Local Limits Determination Based on Chronic Water Quality Standards						7						
ENVIRONMENTAL CRITERIA AND PROCESS DATA BASE								MAXIMUM LOADING			INDUSTRIAL		
Pollutant	IU Pollut. Flow (MGD) (Qind)	POTW Flow (MGD) (Qpotw)	Upstream Flow (MGD) (Qstr)	Upstream Conc. (mg/l) (Cstr)	Removal Efficiency (%) (Rpotw)	Chronic WQS (mg/l) (Ccrit)	Domestic and Conc. (mg/l) (Cdom)	Commercial Flow (MGD) (Qdom)	Allowable Headworks (lbs/day) (Lhw)	Domestic/ Commercial (lbs/day) (Ldom)	Allowable Loading (lbs/day) (Lind)	Local Limit (mg/l) (Cind)	Safety Factor (%) (SF)
Ammonia-N													
Arsenic													
BOD													
Cadmium													
Chromium													
Hex. Chrom.													
COD													
Copper													
Cyanide													
Lead*													
Mercury													
Nickel	0.1	0.405	0	0	42	0.031858	0.047	0.305	0.1855289	0.1195539	0.0474221	0.056861	10
Oil & Grease													
Phosphorus													
Silver													
TSS													
TTO													
Selenium	0.1	0.405	0	0	50	0.005		0.305	0.033777	0	0.0303993	0.03645	10
Zinc	0.1	0.405	0	0	79	0.11016	0.231	0.305	1.7718449	0.5875947	1.0070657	1.207513	10
(Qind)	Industrial User total plant discharge flow in Million Gallons per Day (MGD) that contains a particular pollutant.												
(Qpotw)	POTW's average influent flow in MGD.												
(Qstr)	Receiving stream (upstream) 7Q10 flow in MGD.												
(Cstr)	Receiving stream background level in mg/l.												
(Rpotw)	Removal efficiency across POTW as percent.												
(Ccrit)	State chronic water quality standard for a particular pollutant in mg/l.												
(Qdom)	Domestic/commercial background flow in MGD.												
(Cdom)	Domestic/commercial background concentration for a particular pollutant in mg/l.												
(Lhw)	Maximum allowable headworks pollutant loading to the POTW in pounds per day (lbs/day).												
(Ldom)	Domestic/commercial background loading to the POTW for a particular pollutant in pounds per day (lbs/day).												
(Lind)	Maximum allowable industrial loading to the POTW in pounds per day.												
(Cind)	Industrial allowable local limit for a given pollutant in mg/l.												
(SF)	Safety factor as a percent.												
8.34	Unit conversion factor												
Lhw =	8.34 * (Ccrit * (Qstr + Qpotw) - (Cstr * Qstr))												
	1 - Rpotw												
::													

Primary Treatment

	Local Limits Determination Based on Acute Water Quality Standards						8							
	ENVIRONMENTAL CRITERIA AND PROCESS DATA BASE								MAXIMUM LOADING			INDUSTRIAL		
Pollutant	IU Pollut. Flow (MGD) (Qind)	POTW Flow (MGD) (Qpotw)	Upstream Flow (MGD) (Qstr)	Upstream Conc. (mg/l) (Cstr)	Removal Efficiency (%) (Rpotw)	Acute WQS (mg/l) (Ccrit)	Domestic and Conc. (mg/l) (Cdom)	Commercial Flow (MGD) (Qdom)	Allowable Headworks (lbs/day) (Lhw)	Domestic/ Commercial (lbs/day) (Ldom)	Allowable Loading (lbs/day) (Lind)	Local Limit (mg/l) (Cind)	Safety Factor (%) (SF)	
Ammonia-N														
Arsenic														
BOD														
Cadmium														
Chromium														
Hex. Chrom.														
COD														
Copper														
Cyanide														
Lead														
Mercury														
Nickel	0.1	0.405	0	0	42	0.28683	0.047	0.305	1.6703891	0.1195539	1.3837963	1.659228	10	
Oil & Grease														
Phosphorus														
Silver														
TSS														
TTO														
Zinc	0.1	0.405	0	0	79	0.10927	0.231	0.305	1.7575299	0.5875947	0.9941822	1.192065	10	
(Qind)	Industrial User total plant discharge flow in Million Gallons per Day (MGD) that contains a particular pollutant.													
(Qpotw)	POTW's average influent flow in MGD.													
(Qstr)	Receiving stream (upstream) 1Q10 flow in MGD.													
(Cstr)	Receiving stream background level in mg/l.													
(Rpotw)	Removal efficiency across POTW as percent.													
(Ccrit)	State acute water quality standard for a particular pollutant in mg/l.													
(Qdom)	Domestic/commercial background flow in MGD.													
(Cdom)	Domestic/commercial background concentration for a particular pollutant in mg/l.													
(Lhw)	Maximum allowable headworks pollutant loading to the POTW in pounds per day (lbs/day).													
(Ldom)	Domestic/commercial background loading to the POTW for a particular pollutant in pounds per day (lbs/day).													
(Lind)	Maximum allowable industrial loading to the POTW in pounds per day.													
(Cind)	Industrial allowable local limit for a given pollutant in mg/l.													
(SF)	Safety factor as a percent.													
8.34	Unit conversion factor													
Lhw =	8.34 * (Ccrit * (Qstr + Qpotw) - (Cstr * Qstr))													
	1 - Rpotw													
::														

Primary Treatment

TABLE 9 Local Limits Determination Based on Anaerobic Digester Inhibition Level - N/A												
ENVIRONMENTAL CRITERIA AND PROCESS DATA BASE						MAXIMUM LOADING INDUSTRIAL						
Pollutant	IU Pollut. Flow (MGD) (Qind)	POTW Flow (MGD) (Qpotw)	Sludge Flow to Digester (MGD) (Qdig)	Removal Efficiency (%) (Rpotw)	Anaerobic Digester Inhibition Level (mg/l) (Ccrit)	Domestic and Conc. (mg/l) (Cdom)	Commercial Flow (MGD) (Qdom)	Allowable Headworks (lbs/day) (Lhw)	Domestic/ Commercial (lbs/day) (Ldom)	Allowable Loading (lbs/day) (Lind)	Local Limit (mg/l) (Cind)	Safety Factor (%) (SF)
Ammonia-N												
Arsenic												
BOD												
Cadmium												
Chromium												
Hex. Chrom.												
COD												
Copper												
Cyanide												
Lead												
Mercury												
Nickel												
Oil & Grease												
Phosphorus												
Silver												
TSS												
TTO												
Zinc												
(Qind)	Industrial User total plant discharge flow in Million Gallons per Day (MGD) that contains a particular pollutant.											
(Qpotw)	POTW's average influent flow in MGD.											
(Qdig)	Sludge flow to digester in MGD.											
(Rpotw)	Removal efficiency across POTW as percent.											
(Ccrit)	Anaerobic digester threshold inhibition level in mg/l.											
(Qdom)	Domestic/commercial background flow in MGD.											
(Cdom)	Domestic/commercial background concentration for a particular pollutant in mg/l.											
(Lhw)	Maximum allowable headworks pollutant loading to the POTW in pounds per day (lbs/day).											
(Ldom)	Domestic/commercial background loading to the POTW for a particular pollutant in pounds per day (lbs/day).											
(Lind)	Maximum allowable industrial loading to the POTW in pounds per day.											
(Cind)	Industrial allowable local limit for a given pollutant in mg/l.											
(SF)	Safety factor as a percent.											
8.34	Unit conversion factor											
Lhw =	8.34 * Ccrit * Qdig											
	Rpotw											

Primary Treatment

[illegible]

Permit Name: **LanzaTech Freedom Pines Biorefinery**
Permit No.: **GAP050299**

Mass Based Permit Limit = (Conc. Limit x Flow x 8.34)

Pollutant	Concentration Based Effluent Limit (mg/L)		Mass Based Effluent Limit (lb/d)	
	Daily Average	Daily Maximum	Daily Average	Daily Maximum
Nickel	0.06	0.06	0.050	0.050
Selenium	0.04	0.04	0.033	0.033
Zinc	0.68	0.68	0.567	0.567

Daily Average Flow Limit (MGD) of the facility 0.1
Daily Maximum Flow Limit (MGD) of the facility 0.1

APPENDIX C – Sewer Use Ordinance

Wastewater to City of Soperton Ammendment

LanzaTech Freedom Pines Biorefinery LLC
Soperton, GA

Maximum Conditions & Contaminant Limits for Effluent to the City POTW	
Flow (GPD)	100,000
pH	6.0 – 8.5
Oil and Grease (ppm)	7.0
BOD (ppm)	200.0
TSS (ppm)	350
Ammonia (ppm)	25.0
Total Nitrogen (ppm)	47.0

The waste water effluent stream conditions and contaminants limits indicated in the above "Maximum Conditions & Contaminant Limits for Effluent to the City POTW", potentially produced by the LanzaTech Freedom Pines Biorefinery, LLC Soperton Plant located at 535 Commerce Drive, Soperton, GA, are acceptable maximum limits for industrial wastewater piped to the City of Soperton Waste water Treatment Plant.

I/We approve the limits indicated in the table above:

 Superintendent 08/25/2020
Signature Title Date

City of Soperton POTW Representative

 Site Manager 8/26/2020
Signature Title Date

LFPB, LLC Representative

AN ORDINANCE

To impose water conservation restrictions; to provide definitions; to provide for exemptions; to provide for penalties; to provide for related matters; to repeal conflicting ordinances and for other purposes.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SOPERTON:

Section 1. Definitions.

(a) "Commercial" means any type of building other than residential.

(b) "Construction" means the erection of a new building or the alteration of an existing building in connection with its repair or renovation or in connection with making an addition to an existing building and shall include the replacement of a malfunctioning, un-serviceable, or obsolete faucet, showerhead, toilet, or urinal in an existing building.

(c) "Residential" means any building or unit of a building intended for occupancy as a dwelling but shall not include a hotel or motel.

Section 2. On or after July 1, 1991, no construction may be initiated within the City of Soperton for any residential building of any type which:

(1) Employs a gravity tank-type, flushometer-valve, or flushometer-tank toilet that uses more than an average of 1.6 gallons of water per flush; provided, however, this paragraph shall not be applicable to one-piece toilets until July 1, 1992;

(2) Employs a shower head that allows a flow of more than an average of 2.5 gallons of water per minute at 60 pounds per square inch of pressure;

(3) Employs a urinal that uses more than an average of 1.0 gallons of water per flush;

(4) Employs a lavatory faucet or lavatory replacement aerator that allows a flow of more than 2.0 gallons of water per minute; or

(5) Employs a kitchen faucet or kitchen replacement aerator that allows a flow of more than 2.5 gallons of water per minute.

Section 3. On or after July 1, 1992 there shall be no construction of any commercial building initiated within the City of Soperton for any commercial building of any type which does not meet the requirements of subparagraphs (1) through (5) of Section 2 of this ordinance.

Section 4. The requirements of Section 2 of this ordinance shall apply to any residential construction initiated after July 1, 1991 and to any commercial construction initiated after July 1, 1992, which involves the repair or renovation of or addition to any existing building when such repair or renovation of or addition to such existing building includes replacement of toilets or showers or both.

Section 5. (a) Exemptions. New construction and the repair or renovation of an existing building shall be exempt from the requirements of Sections 2, 3 and 4 of this ordinance when:

(1) The repair or renovation of the existing building does not include the replacement of the plumbing or sewage system servicing toilets, faucets or showerheads within such existing buildings; or,

(2) When such plumbing or sewage system within such existing building, because of its capacity, design, or installation would not function properly if the toilets, faucets or showerheads required by this ordinance were installed; or,

(3) Such system is a well or gravity flow from a spring and is owned privately by an individual for use in such individual's personal residence; or,

(4) Units to be installed are:

(a) Specifically designed for use by the handicapped,

(b) Specifically designed to withstand unusual abuse or installation in a penal institution; or,

(c) Toilets for juveniles.

(b) The owner, or his agent, of a building undergoing new construction or repair or renovation who is entitled to an exemption as specified in subparagraph (a) (2), (3) or (4) of this section shall obtain the exemption by applying at the office of the building inspector for the City of Soperton. A fee of \$ 15.00 shall be charged for the inspection and issuance of such exemption.

Section 6. Enforcement; Penalty. (a) This ordinance shall be enforced by the office of the building inspector of the City of Soperton. Citations for violations may be issued by the Chief Building Inspector of the City of Soperton.

(b) Any person, corporation, partnership or other entity violating this ordinance shall be tried before the municipal court of the City of Soperton. Upon conviction, a violation of this ordinance may be punished by a fine or imprisonment.

Section 7. All ordinances and parts of ordinances in conflict with this ordinance are repealed.

Section 8. Effective Date. This ordinance shall become effective on March 16, 1992.

Approved by the Mayor and City Council of the City of Soperton this sixteenth day of March, 1992.

Bobby Joe Moyley
MAYOR

ATTEST

Becky Hooks
CITY CLERK

AN ORDINANCE

To impose water and sewer rates; to provide definitions; to repeal all conflicting ordinances and for other purposes.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SOPERTON:

Section 1. Definitions.

(a) "Commercial" means any type of building other than residential..

(b) "Residential" means any building or unit of a building intended for occupancy as a dwelling but shall not include a hotel or motel.

Section 2. Water Rates "Inside City Limits" Residential and Commercial.

(a) Residential Water (In City)		(b) Commercial Water (In City)	
Up to 2000 gallons	\$10.00	Up to 2000 gallons	\$10.00
2001 to 25,000 gallons	1.50	2001 to 25,000 gallons	1.50
25,001 to 100,000 gallons	2.00	25,001 to 100,000 gallons	2.00
100,000 + gallons	3.25	100,000 + gallons	3.25

Section 3. Water Rates "Outside City Limits" Residential and Commercial.

(a) Residential Water (Outside City)		(b) Commercial Water (Outside City)	
Up to 2000 gallons	\$50.00	Up to 2000 gallons	\$50.00
2001 to 25,000 gallons	1.50	2001 to 25,000 gallons	1.50
25,001 to 100,000 gallons	2.00	25,001 to 100,000 gallons	2.00
100,000 + gallons	3.25	100,000 + gallons	3.25

Section 4. Sewer Rates "Inside City Limits" Residential and Commercial.

(a) Residential (In City)	(b) Commercial (In City)
\$22.00 or 75% of water bill (whichever is greater)	\$22.00 or 100% of water bill (whichever is greater)

Section 5. Sewer Rates "Outside City Limits"

TITLE 6

Municipal Utilities

Chapter 1 Water System
Chapter 2 Sewerage System

CHAPTER 1

Water System

- § 6-1-1 Provisions for water system.
- § 6-1-2 Use of water system.
- § 6-1-3 Wells.
- § 6-1-4 Rates, rules and regulations.
- § 6-1-5 Application of chapter; unauthorized use; violations.
- § 6-1-6 Definition of water patron.
- § 6-1-7 Two or more patrons on one water meter.
- § 6-1-8 Violations; notice; penalties.

Sec. 6-1-1 Provisions for water system.

The city shall establish, own, maintain, equip, extend, repair, and improve a system of waterworks in and for the city for the purpose of supplying water to the inhabitants of the city, and for the purpose of supplying water to customers generally within the city limits, and at the discretion of the mayor and council, to customers outside of the city limits.

Sec. 6-1-2 Use of water system.

(a) The mayor and council shall have the right to establish such rates and charges and regulations governing the use of the water system as they may from time to time deem necessary.

(b) All patrons and users of the city water system shall be required to pay such connection or cut-in fees, which will include the cost of the meter and connection or cut-in expense, as the mayor and council shall require.

Sec. 6-1-3 Wells.

(a) No person shall dig, drill, make, or maintain a water well in the city without the written consent and approval of the mayor and council.

(b) No unused wells, dry wells, or other open places, shall be allowed, maintained, or kept in the city. The mayor and council shall have the right to abate and fill in any such wells at the expense of the owner. (Code 1972, Sec. 21-I-3)

Sec. 6-1-4 Rates, rules and regulations.

(a) From time to time the mayor and council shall by resolution prescribe the rates, rules and regulations, and connection or cut-in fees for all water customers. A current schedule of all water rates, charges and regulations shall be maintained on file in the office of the city clerk.

(b) The water bills of all water patrons shall be due and payable on the 20th day of the month next following the month in which the liability or bill for the use of the water system was incurred. For example, bills incurred in January for the use of the water system or for water used or supplied shall be due the next month, on February 20th.

(c) No water patron shall be allowed to be or remain delinquent longer than two (2) months. When a water bill is two (2) months past due the premises of the delinquent water patron shall be disconnected from the water system of the city. Such premises shall not be reconnected to the water system until the delinquent patron, or other person responsible, shall pay all past due water bills plus a reconnection fee in such amount as fixed from time to time by the mayor and council.

Sec. 6-1-5 Application of chapter; unauthorized use; violations.

(a) No person, firm, or corporation shall connect with or use the city water system or take any water therefrom without authority from the city. No person shall use or draw any water from the city water system without paying the fees, rates and charges set up by the mayor and council.

(b) This chapter shall apply to and be enforced as to all property owners, and persons owning, controlling, or using buildings or houses or other places in the city. A violation of this chapter or any part hereof shall, upon conviction, be punished for a municipal offense.

(c) Any person, firm, or corporation who shall take, draw, or consume water from the city water system unlawfully and in violation of this chapter shall be liable for the same, shall pay for the same to the city, shall be liable in damages to the city, and shall be punished as provided in section 1-1-8.

Sec. 6-1-6 Definition of water patron.

A water patron is hereby defined as follows:

(1) Any person who is the head of or responsible for the debts of any single household who lives as a separate householder at one location and who consumes or has available for consumption water provided by the city. In cases of apartments and apartment houses, each apartment shall be considered a separate household.

CODE OF ORDINANCES
CITY OF SOPERTON, GEORGIA

AMENDMENT

TITLE 6, CHAPTER 1, SECTION 6-1-4 (c)

ADDITION

(c) No water patron shall be allowed to be or remain delinquent longer than two (2) months. When a water bill is two (2) months past due the premises of the delinquent water patron shall be disconnected from the water system of the city. Such premises shall not be reconnected to the water system until the delinquent patron, or other person responsible, shall pay all past due water bills plus a reconnection fee in such amount as fixed from time to time by the Mayor and Council. No person shall continue to live in a residence without water service. Living quarters with no water service shall be deemed as unsanitary. Persons living in these conditions will be required to vacate the premises within ten (10) days.

CHAPTER 2
Sewerage System

ARTICLE A

Definitions

- § 6-2-1 Definitions of specific terms.
- §§6-2-2 through 6-2-10 reserved.

ARTICLE B

Use of Public Sewers Required

- § 6-2-11 Deposit of objectionable wastes.
- § 6-2-12 Discharge of objectionable wastes.
- § 6-2-13 Use of privies.
- § 6-2-14 Connection to public system required.
- §§6-2-15 through 6-2-20 reserved.

ARTICLE C

Private Sewage Disposal

- § 6-2-21 Use where public system not available.
- § 6-2-22 Application.
- § 6-2-23 Inspections.
- § 6-2-24 Specifications.
- § 6-2-25 Abandonment on availability of public sewer.
- § 6-2-26 Maintenance.
- § 6-2-27 Additional requirements.
- §§6-2-28 through 6-2-40 reserved.

ARTICLE D

Building Sewers and Connections

- § 6-2-41 Permit required.
- § 6-2-42 Cost; responsibility.
- § 6-2-43 Each building requires separate.
- § 6-2-44 Old sewers, use of.
- § 6-2-45 Specifications.
- § 6-2-46 Size; slope.
- § 6-2-47 Elevation; grade.
- § 6-2-48 Lifts.
- § 6-2-49 Excavations.
- § 6-2-50 Joints.
- § 6-2-51 Connection of building and public sewer.
- § 6-2-52 Inspections.
- § 6-2-53 Safeguarding public around excavations.
- §§6-2-54 through 6-2-60 reserved.

ARTICLE E

Use of Public Sewers

- § 6-2-61 Discharge of surface waters.
- § 6-2-62 Use of storm sewers.
- § 6-2-63 Prohibited discharges.
- § 6-2-64 Interceptors; use; specifications.
- § 6-2-65 Same; maintenance.
- § 6-2-66 Pretreatment required for certain wastes.
- § 6-2-67 Pretreatment facilities; maintenance.
- § 6-2-68 Manholes.
- § 6-2-69 Sampling standards.
- § 6-2-70 Special agreements.
- § 6-2-71 Charges and fees.
- §§6-2-72 through 6-2-80 reserved.

ARTICLE F

Miscellaneous Provisions

- § 6-2-81 Protection from damage.
- § 6-2-82 Powers and authority of inspectors.
- § 6-2-83 Penalties.

ARTICLE A

Definitions

Sec. 6-2-1 Definitions of specific terms.

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

- (1) Sewerage works shall mean all facilities for collecting, pumping, treating and disposing of sewerage.
- (2) Superintendent shall mean the superintendent or manager of the sewerage works of the city, or his authorized deputy, agent or representative, as designated by the mayor and council.
- (3) Sewage shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm water as may be present.
- (4) Sewer shall mean a pipe or conduit for carrying sewerage.
- (5) Public sewer shall mean a sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority.

- (6) Sanitary sewer shall mean a sewer which carries sewage and to which storm, surface and ground water are not intentionally admitted.
- (7) Storm sewer or storm drain shall mean a sewer which carries storm and surface water and drainage, but excludes sewage and polluted industrial wastes.
- (8) Sewage treatment plant shall mean any arrangement of devices and structures or lagoons used for treating sewage presently owned or afterward acquired by the city.
- (9) Industrial wastes shall mean the liquid wastes from industrial processes as distinct from sanitary sewage.
- (10) Garbage shall mean solid wastes from the preparation, cooking and disposing of food, and from the handling, storage and sale of produce.
- (11) Properly shredded garbage shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.
- (12) Building data shall mean the part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall.
- (13) Building sewer shall mean the extension from the building drain to the public sewer or other places of disposal.
- (14) B.O.D. (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Centigrade, expressed in milligrams per liter.
- (15) ph shall mean the logarithm of the reciprocal of the hydrogen ion concentration in molecules per liter.
- (16) Suspended solids shall mean solids that either float on the surface of, or are in suspension in water, sewerage or other liquids, and which are removable by laboratory filtering.
- (17) Natural outlet shall mean any outlet into a watercourse, pond, ditch, lake or other body, surface or ground water.
- (18) Watercourse shall mean a channel in which a flow of water occurs, either continuously or intermittently.
- (19) Person shall mean any individual, firm, company, association, society, corporation or group.

(20) Shall is mandatory; may is permissive. (Ord. of
8/7/84)

Secs. 6-2-2 through 6-2-10 reserved.

ARTICLE B

Use of Public Sewers Required

Sec. 6-2-11 Deposit of objectionable wastes.

It shall be unlawful for any person to place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the city or in any area under the jurisdiction of the city, any human or animal excrement, garbage or other objectionable waste. (Ord. of 8/7/84)

Sec. 6-2-12 Discharge of objectionable wastes.

It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city, any sanitary sewage, industrial wastes, or other polluted water, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter. (Ord. of 8/7/84)

Sec. 6-2-13 Use of privies.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other facility intended or used for the disposal of sewage.

Sec. 6-2-14 Connection to public system required.

The owner of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes within the corporate limits of the city and located within 200 feet of a line of public sanitary sewer not in existence or hereafter constructed to which such house, building or property may be connected so that sewage will flow therefrom and into such sewer line by gravity, is hereby required at his own expense to install suitable toilet facilities therein and to connect such facilities directly with the line of public sanitary sewer in accordance with the provisions of this chapter within 60 days after date of official notice to do so. (Ord. of 8/7/84)

Secs. 6-2-15 through 6-2-20 reserved.

ARTICLE C

Private Sewage Disposal

Sec. 6-2-21 Use where public system not available.

Where a public sanitary sewer is not available under the provisions of section 6-2-14, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article. (Ord. of 8/7/84)

Sec. 6-2-22 Application.

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the superintendent or county health sanitarian. The application for such permit shall be supplemented by the applicant with any plans, specifications and other information as are deemed necessary by the superintendent or county health sanitarian.

Sec. 6-2-23 Inspections.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent or county health sanitarian. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the superintendent or county health sanitarian when the work is ready for final inspection.

Sec. 6-2-24 Specifications.

The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the Department of Natural Resources, Environmental Protection Division of the State of Georgia. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 6,000 square feet. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet. (Ord. of 8/7/84)

Sec. 6-2-25 Abandonment on availability of public sewer.

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 6-2-14, a direct connection shall be made to the public sewer in compliance with this chapter; and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material. (Ord. of 8/7/84)

Sec. 6-2-26 Maintenance.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. (Ord. of 8/7/84)

Sec. 6-2-27 Additional requirements.

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the city or by county health officials. (Ord. of 8/7/84)

Secs. 6-2-28 through 6-2-40 reserved.

ADMENDMENT - June 29, 1989

June 29, 1989
City of Soperton, Georgia
Code of Ordinances

Amendment - ARTICLE D-BUILDING SEWERS AND CONNECTIONS, SECTION, 6-2-43, EACH BUILDING
REQUIRES SEPARATE.

A separate and independent building sewer shall be provided for every building; except that where one commercial purpose building stands at the rear of another commercial purpose building or an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, except for purposes of billing. Only one sewer tap shall be provided per residential (single family dwelling) lot containing less than 100' of road frontage. This prohibition shall not apply to multi-family units nor designated trailer parks with sewer facilities approved by the Water and Wastewater Superintendent of the City of Soperton.

ARTICLE D

Building Sewers and Connections

Sec. 6-2-41 Permit required.

No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the superintendent.

Sec. 6-2-42 Cost; responsibility.

All cost and expense incident to the connection of the building sewer from the owner's building to the city property line shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may be directly or indirectly occasioned by the connection of the building sewer. Any connection from the city property line into the public sewer shall be made by the city, for which the owner shall pay the city a standard sewer tap fee as fixed from time to time by the mayor and council.

Sec. 6-2-43 Each building requires separate.

~~A separate and independent building sewer shall be provided for every building; except that where one building stands at the rear of another or an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, except for purposes of billing.~~

Sec. 6-2-44 Old sewers, use of.

Old building sewers may be used in connection with new buildings when they are found, on examination and test by the superintendent, to meet all requirements of this chapter. (Ord. of 8/7/84)

Sec. 6-2-45 Specifications.

The building sewer shall be cast iron pipe, federal specification WW-P-401; clay pipe, ASTM C-700-75 with joints conforming to ASTM C-425; PVC, ASTM D-3034 with joints like ASTM D-3036. Joints shall be tight and water-proof. Any part of the building sewer that is located within 10 feet of a water service shall be constructed of cast iron soil pipe with leaded joints. Cast iron pipe with leaded joints may be required by the superintendent where the building sewer is exposed to damage by tree roots. If installed in filled or unstable ground, the building sewer shall be of cast iron soil pipe, except that non-metallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the superintendent.

Sec. 6-2-46 Size; slope.

The size and slope of the building sewer shall be subject to the approval of the superintendent, but in no event shall the diameter be less than four (4) inches, the slope of such four (4) inch pipe shall not be less than one-eighth (1/8) inch per foot. (Ord. of 8/7/84)

Sec. 6-2-47 Elevation; grade.

Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three (3) feet of any bearing wall, which might thereby be weakened. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipes and fittings. (Ord. of 8/7/84)

Sec. 6-2-48 Lifts.

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer. (Ord. of 8/7/84)

Sec. 6-2-49 Excavations.

All excavations required for the installation of a building sewer shall be trench work unless otherwise approved by the superintendent. Pipe laying and backfill shall be performed in accordance with ASTM specification C-12, except that no backfill shall be placed until the work has been inspected. (Ord. of 8/7/84)

Sec. 6-2-50 Joints.

(a) All joints and connections shall be made gastight and watertight.

(b) Cast iron pipe joints shall be firmly packed with oakum or hemp and filled with molten lead, federal specification QQ-L-156, not less than one (1) inch deep. Lead shall be run in one pouring and caulked tight. No paint, varnish or other coatings shall be permitted on the joint material until after the joint has been tested and approved. Rubber joint cast iron pipe may be used as an alternate.

(c) All joints in vitrified clay or between such pipe and metals shall be made with approved hot-pouring jointing material, as specified below or by using rubber gaskets or preformed, factory-applied couplings having resilient properties in

accordance with ASTM specification C-425 for vitrified clay pipe, or the latest revisions thereof.

(d) Material for hot-poured joints shall not soften sufficiently to destroy the effectiveness of the joint when subjected to a temperature of 160 degrees Fahrenheit, and shall not be soluble in any of the wastes carried by the drainage system. The joint shall first be caulked tight with jute, hemp, or similar approved material.

(e) Other jointing materials and methods may be used only by approval of the superintendent. (Ord. of 8/7/84)

Sec. 6-2-51 Connection of building and public sewer.

The connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If the public sewer is 12 inches in diameter or less, and no properly located "Y" branch is available, the city shall install a "Y" branch in the public sewer at the location specified by the superintendent. Where the public sewer is greater than 12 inches in diameter, and no properly located "Y" is available, a neat hole may be cut into the public sewer to receive the building sewer, which entry shall be in the downstream direction at an angle of about 45 degrees. A 45 degree ell may be used to make such connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be at the same or at a higher elevation than the invert of the public sewer. A smooth, neat joint shall be made, and the connection made secure and watertight by encasement in concrete. Special fittings may be used for the connection only when approved by the superintendent. (Ord. of 8/7/84)

Sec. 6-2-52 Inspections.

The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. (Ord. of 8/7/84)

Sec. 6-2-53 Safeguarding public around excavations.

All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city. (Ord. of 8/7/84)

Secs. 6-2-54 through 6-2-60 reserved.

ARTICLE E

Use of Public Sewers

Sec. 6-2-61 Discharge of surface waters.

No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process water to any sanitary sewer. (Ord. of 8/7/84)

Sec. 6-2-62 Use of storm sewers.

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the superintendent. Industrial cooling water or unpolluted process waters may be discharged upon approval of the superintendent, to a storm sewer or natural outlet. (Ord. of 8/7/84)

Sec. 6-2-63 Prohibited discharges.

Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

(1) Any liquid or vapor having a temperature higher than 150 degrees F.

(2) Any water or waste containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils, or product of mineral oil origin; or wastewater from industrial or commercial plants containing more than 100 milligrams per liter of floating oils, fats or grease.

(3) Any gasoline, benzene, naptha, fuel oil or other flammable or explosive liquid, solid or gas.

(4) Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.

(5) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood paunch, manure, whole or ground paper products, or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works.

(6) Any waters or wastes having a pH lower than 5.5 or higher than 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewerage works.

(7) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving water of the sewage treatment plant.

(8) Any water or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.

(9) Any noxious or malodorous gas or substance capable of creating a public nuisance.

(10) All industrial contributors proposing to discharge other than domestic sanitary wastes to the municipal system shall comply with pretreatment regulations set forth in 40 CFR 403 of the Federal Register. (Ord. of 8/7/84)

Sec. 6-2-64 Interceptors; use; specifications.

(a) Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent and shall be located as to be readily and easily accessible for cleaning and inspection.

(b) Grease and oil interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight. (Ord. of 8/8/84)

Sec. 6-2-65 Same; maintenance.

When installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times. (Ord. of 8/7/84)

Sec. 6-2-66 Pretreatment required for certain wastes.

The admission into the public sewers of any water or wastes having:

(1) a five (5) day Biochemical Oxygen Demand greater than 300 milligrams per liter;

(2) containing more than 350 milligrams per liter of suspended solids; or

(3) containing any quantity of substance having the characteristics described in section 6-2-63; or

(4) having an average daily flow greater than two percent (2%) of the average daily sewage flow of the city;

Shall be subject to the review and approval of the superintendent. Where necessary in the opinion of the superintendent the owner shall provide, at his expense, such preliminary treatment as may be necessary to:

(1) reduce the Biochemical Oxygen Demand to 300 milligrams per liter;

(2) reduce objectionable characteristics or constituents to within the maximum limits provided for the section 6-2-63; or

(3) control the quantities and rates of discharge of such water or wastes.

Plans, specification and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the superintendent and no construction of such facilities shall be commenced until said approval is obtained in writing. (Ord. of 8/7/84)

Sec. 6-2-67 Pretreatment facilities; maintenance.

Where preliminary treatment facilities are provided for any water or wastes, they shall be maintained continuously in satisfactory and effective operation, by the owner at his expense. (Ord. of 8/7/84)

Sec. 6-2-68 Manholes.

When required by the superintendent, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the superintendent. (Ord. of 8/7/84)

Sec. 6-2-69 Sampling standards.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in sections 6-6-63 and 6-2-66 shall be determined in accordance with "Standard Methods for the Examination of Water and Sewage," shall be determined at the control manhole provided in section 6-2-68, or upon suitable samples taken at such control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. (Ord. of 8/7/84)

Sec. 6-2-70 Special agreements.

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor by the industrial concern. (Ord. of 8/7/84)

Sec. 6-2-71 Charges and fees.

There is hereby established a schedule of service rates and charges for use of the city sewerage system. A current copy of city rates shall be maintained on file in the office of the city clerk. All sewer service charges shall be billed with the monthly water bill as provided in section 6-1-4 and shall be subject to the penalties outlined in section 6-1-4.

Sec. 6-2-72 through 6-2-80 reserved.

ARTICLE F

Miscellaneous Provisions

Sec. 6-2-81 Protection from damage.

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the municipal sewerage works. (Ord. of 8/7/84)

Sec. 6-2-82 Powers and authority of inspectors.

The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. (Ord. of 8/7/84)

Sec. 6-2-83 Penalties.

(a) Any person found to be violating any provision of this chapter, except section 6-2-81, shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Any person who shall violate the provisions of section 6-2-81 or who shall continue any violation hereof beyond the time limit provided for in section 6-2-14 or subsection (a) hereof or who shall continue any other violation hereof, shall, upon conviction thereof, be punished as provided in section 1-1-8 for each violation. Each day in which such a violation shall continue shall constitute a separate offense and violation. (Ord. of 8/7/84)

CITY OF SOPERTON
STATE OF GEORGIA

AMENDMENT TO TITLE 6

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF SOPERTON, GEORGIA TO ESTABLISH AN IDENTITY THEFT PREVENTION PROGRAM; TO COMPLY WITH FEDERAL REGULATIONS RELATING TO ADDRESS DISCREPANCIES; TO COMPLY WITH FEDERAL REGULATIONS RELATING TO RED FLAGS AND IDENTITY THEFT; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES ALLOWED BY LAW

WHEREAS pursuant to federal law the Federal Trade Commission adopted Identity Theft Rules requiring the creation of certain policies relating to the use of consumer reports, address discrepancy and the detection, prevention and mitigation of identity theft;

WHEREAS the Federal Trade Commission regulation, adopted as 16 CFR § 681.2 require creditors, as defined by 15 U.S.C. § 1681a(r)(5) to adopt red flag policies to prevent and mitigate identity theft with respect to covered accounts;

WHEREAS 15 U.S.C. § 1681a(r)(5) cites 15 U.S.C. § 1691a, which defines a creditor as a person that extends, renews or continues credit, and defines 'credit' in part as the right to purchase property or services and defer payment therefore;

WHEREAS The Federal Trade Commission regulations include utility companies in the definition of creditor;

WHEREAS the City of Soperton, Georgia is a creditor with respect to 16 CFR § 681.2 by virtue of providing utility services and/or by otherwise accepting payment for municipal services in arrears;

WHEREAS the Federal Trade Commission regulations define 'covered account' in part as an account that a creditor provides for personal, family or household purposes that is designed to allow multiple payments or transactions and specifies that a utility account is a covered account;

WHEREAS the Federal Trade Commission regulations require each creditor to adopt an Identity Theft Prevention Program which will use red flags to detect, prevent and mitigate identity theft related to information used in covered accounts;

WHEREAS the City provides utility services including, but not limited to water and sewer services, for which payment is made after the product is consumed or the service has otherwise been provided which by virtue of being utility accounts are covered accounts;

WHEREAS the Federal Trade Commission regulations, adopted as 16 CFR 681.1, require users of consumer credit reports to develop policies and procedures relating to address discrepancies between information provided by a consumer and information provided by a consumer credit company;

WHEREAS, the City of Soperton may, from time to time, use consumer credit reports to establish various customer accounts; and

WHEREAS the duly elected governing authority of the City of Soperton is the Mayor and council thereof;

NOW THEREFORE be it ordained that the City of Soperton adopts the following Identity Theft Prevention Program.

Article A

The Code of the City of Soperton is hereby amended by adding a Chapter 3 to Title 6 entitled "Consumer Protection," and by adding Article A to be named "Article A," which said Article reads as follows:

"Article A

Identity Theft Prevention Program

Section 6-3-1. Short Title.

This article shall be known as the Identity Theft Prevention Program.

Section 6-3-2. Purpose.

The purpose of this Article is to comply with 16 CFR § 681.2 in order to detect, prevent and mitigate identity theft by identifying and detecting identity theft red flags and by responding to such red flags in a manner that will prevent identity theft.

Section 6-3-3. Definitions.

For purposes of this Article, the following definitions apply:

- (a) 'City' means the City of Soperton, Georgia.

- (b) 'Covered account' means (i) an account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a credit card account, mortgage loan, automobile loan, margin account, cell phone account, utility account, checking account, or savings account; and (ii) any other account that the financial institution or creditor offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft, including financial, operational, compliance, reputation, or litigation risks.
- (c) 'Credit' means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefor.
- (d) 'Creditor' means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit and includes utility companies and telecommunications companies.
- (e) 'Customer' means a person that has a covered account with a creditor.
- (f) 'Identity theft' means a fraud committed or attempted using identifying information of another person without authority.
- (g) 'Person' means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.
- (h) 'Personal Identifying Information' mean a person's credit card account information, debit card information, bank account information and driver's license information and for a natural person includes their Social Security Number, mother's birth name, and date of birth.
- (i) 'Red flag' means a pattern, practice, or specific activity that indicates the possible existence of identity theft.
- (j) 'Service provider' means a person that provides a service directly to the City.

Section 6-3-4. Findings.

- (1) The City is a creditor pursuant to 16 CFR § 681.2 due to its provision or maintenance of covered accounts for which payment is made in arrears.
- (2) Covered accounts offered to customers for the provision of City services include water and sewer service accounts.
- (3) The processes of opening a new covered account, restoring an existing covered account and making payments on such accounts have been identified as potential processes in which identity theft could occur.

- (4) The City limits access to personal identifying information to those employees responsible for or otherwise involved in opening or restoring covered accounts or accepting payment for use of covered accounts. Information provided to such employees is entered directly into the City's computer system and is not otherwise recorded.
- (5) The City determines that there is a moderate risk of identity theft occurring in the following ways:
 - a. Use by an applicant of another person's personal identifying information to establish a new covered account;
 - b. Use of a previous customer's personal identifying information by another person in an effort to have service restored in the previous customer's name;
 - c. Use of another person's credit card, bank account, or other method of payment by a customer to pay such customer's covered account or accounts; and
 - d. Use by a customer desiring to restore such customer's covered account of another person's credit card, bank account, or other method of payment.

Section 6-3-5. Process of Establishing a Covered Account

- (1) As a precondition to opening a covered account in the City, each applicant shall provide the City with the following personal identifying information of the customer: a valid government issued identification card containing a photograph of the customer or, for customers who are not natural persons, a photograph of the customer's agent opening the account. Such applicant shall also provide any information necessary for the City providing the service for which the covered account is created to access the applicant's consumer credit report. Such information shall be required upon written applications to be completed by the applicant. Such information shall be entered directly into the City's records and shall not otherwise be recorded.
- (2) Each account shall be assigned an account number which shall be unique to that account.

Section 6-3-6. Access to Covered Account Information.

- (1) Access to customer accounts shall be kept in a location only accessible to authorized City personnel during work hours.
- (2) Personal identity information included in customer accounts is considered confidential, and any request or demand for such information shall be immediately forwarded to the Mayor and the City Attorney.

Section 6-3-7. Credit Card Payments.

- (1) In the event that credit card payments that are made over the Internet are processed through a third party service provider, such third party service provider shall certify that it has an adequate identity theft prevention program in place that is applicable to such payments.
- (2) All credit card payments made over the telephone or the City's website shall be entered directly into the customer's account information in the computer data base.
- (3) Account statements and receipts for covered accounts shall include only the last four digits of the credit or debit card or the bank account used for payment of the covered account.

Section 6-3-8. Sources and Types of Red Flags.

All employees responsible for or involved in the process of opening a covered account, restoring a covered account or accepting payment for a covered account shall check for red flags as indicators of possible identity theft and such red flags may include:

- (1) Alerts from consumer reporting agencies, fraud detection agencies or services providers. Examples of alerts include but are not limited to:
 - a. A fraud or active duty alert that is included with a consumer report;
 - b. A notice of credit freeze in response to a request for a consumer report;
 - c. A notice of address discrepancy provided by a consumer reporting agency;
 - d. Indications of a pattern of activity in a consumer report that is inconsistent with the history and usual pattern of activity of an applicant or customer such as:
 - i. A recent and significant increase in the volume of inquiries;
 - ii. An unusual number of recently established credit relationships;
 - iii. A material change in the use of credit, especially with respect to recently established credit relationships; or
 - iv. An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.
- (2) Suspicious documents. Examples of suspicious documents include:
 - a. Documents provided for identification that appear to be altered or forged;
 - b. Identification on which the photograph or physical description is inconsistent with the appearance of the applicant or customer;
 - c. Identification on which the information is inconsistent with information provided by the applicant or customer;

- d. Identification on which the information is inconsistent with readily accessible information that is on file with the financial institution or creditor, such as a signature card or a recent check; or
 - e. An application that appears to have been altered or forged, or appears to have been destroyed and reassembled.
- (3) Suspicious personal identification, such as suspicious address change. Examples of suspicious identifying information include:
- a. Personal identifying information that is inconsistent with external information sources used by the financial institution or creditor. For example:
 - i. The address does not match any address in the consumer report, or
 - ii. The Social Security Number (SSN) has not been issued, or is listed on the Social Security Administration's Death Master File;
 - b. Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer, such as a lack of correlation between the SSN range and date of birth;
 - c. Personal identifying information or a phone number or address, is associated with known fraudulent applications or activities as indicated by internal or third-party sources used by the financial institution or creditor;
 - d. Other information provided, such as fictitious mailing address, mail drop addresses, jail addresses, invalid phone numbers, page numbers or answering services, is associated with fraudulent activity;
 - e. The SSN provided is the same as that submitted by other applicants or customers;
 - f. The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of applicants or customers;
 - g. The applicant or customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete;
 - h. Personal identifying information is not consistent with personal identifying information that is on file with the financial institution or creditor;
 - i. The applicant or customer cannot provide authenticating information beyond that which generally would be available from wallet or consumer report.
- (4) Unusual use of or suspicious activity relating to a covered account. Examples of suspicious activity include:

- a. Shortly following the notice of a change of address for an account, City receives a request for the addition of authorized users on the account.
 - b. A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example:
 - i. The customer fails to make the first payment or makes an initial payment but no subsequent payments.
 - c. An account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:
 - i. Nonpayment when there is no history of late or missed payments;
 - ii. A material change in purchasing or spending patterns;
 - d. An account that has been inactive for a long period of time is used *(taking into consideration the type of account, the expected pattern of usage and other relevant factors)*;
 - e. Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's account;
 - f. The City is notified that the customer is not receiving paper account statements;
 - g. The City is notified of unauthorized charges or transactions in connection with a customer's account; and
 - h. The City is notified by a customer, law enforcement or another person that it has opened a fraudulent account for a person engaged in identity theft.
- (5) Notice from customers, law enforcement, victims or other reliable sources regarding possible identity theft or phishing relating to covered accounts.

Section 6-3-9. Prevention and Mitigation of Identity Theft.

- (1) In the event that any City employee responsible for or involved in restoring an existing covered account or accepting payment for a covered account becomes aware of red flags indicating possible identity theft with respect to existing covered accounts, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the City Clerk. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to the City Clerk, who may in his or her discretion determine that no further action is necessary. If the City

Clerk in his or her discretion determines that further action is necessary, a City employee shall perform one or more of the following responses, as determined to be appropriate by the City Clerk:

- a. Contact the customer;
 - b. Make the following changes to the account if, after contacting the customer, it is apparent that someone other than the customer has accessed the customer's covered account:
 - i. change any account numbers, passwords, security codes, or other security devices that permit access to an account, or
 - ii. close the account;
 - c. Cease attempts to collect additional charges from the customer and decline to sell the customer's account to a debt collector in the event that the customer's account has been accessed without authorization and such access has caused additional charges to accrue;
 - d. Notify a debt collector with 24 hours of the discovery of likely or probable identity theft relating to a customer account that has been sold to such debt collector in the event that a customer's account has been sold to a debt collector prior to the discovery of the likelihood or probability of identity theft relating to such account;
 - e. Notify law enforcement, in the event that someone other than the customer has accessed the customer's account causing additional charges to accrue or accessing personal identifying information; or
 - f. Take other appropriate action to prevent or mitigate identity theft.
- (2) In the event that any City employee responsible for or involved in opening a new covered account becomes aware of red flags indicating possible identity theft with respect to an application for a new account, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the City Clerk. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to the City Clerk, who may in his or her discretion determine that no further action is necessary. If the City Clerk, in his or her discretion determines that further action is necessary, a City employee shall perform one or more of the following responses, as determined to be appropriate by the City Clerk:
- a. Request additional identifying information from the applicant;
 - b. Deny the application for the new account;
 - c. Notify law enforcement of possible identity theft; or
 - d. Take other appropriate action to prevent or mitigate identity theft.

Section 6-3-10. Updating the Program.

The City Council shall annually review and, as deemed necessary by the Council, update the Identity Theft Program, along with any relevant red flags, in order to reflect changes in risks to customers or to the safety and soundness of the City and its covered accounts from identity theft. In so doing, the City Council shall consider the following factors and exercise its discretion in amending the program:

- (1) The City's experiences with identity theft;
- (2) Updates in methods of identity theft;
- (3) Updates in customary methods used to detect, prevent, and mitigate identity theft;
- (4) Updates in the types of accounts that the City offers or maintains; and
- (5) Updates in service provider arrangements.

Section 6-3-11. Program Administration.

The City Clerk is responsible for oversight of the program and for program implementation. The Mayor is responsible for reviewing reports prepared by staff regarding compliance with red flag requirements and with recommending material changes to the program, as necessary in the opinion of the Mayor and Council to address changing identity theft risks and to identify new or discontinued types of covered accounts. Any recommended material changes to the program shall be submitted to the City Council for consideration by the Council.

- (1) The City Clerk will report to the Mayor and Council at least annually, on compliance with the red flag requirements. The report will address material matters related to the program and evaluate issues such as:
 - a. The effectiveness of the policies and procedures of the City in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts.
 - b. Service provider arrangements;
 - c. Significant incidents involving identity theft and management's response; and
 - d. Recommendations for material changes to the Program.
- (2) The City Clerk is responsible for providing training to all employees responsible for or involved in opening a new covered account, restoring an existing covered account or accepting payment for a covered account with respect to the implementation and requirements of the identity Theft Prevention Program. The City Clerk shall exercise his or her discretion in determining the amount and substance of training necessary.

Section 6-3-12. Outside Service Providers.

In the event that the City engages a service provider to perform an activity in connection with one or more covered accounts, the City Clerk shall exercise his or her discretion in

reviewing such arrangements in order to ensure, to the best of his or her ability, that the service provider's activities are conducted in accordance with policies and procedures, agreed upon by contract, that are designed to detect any red flags that may arise in the performance of the service provider's activities and take appropriate steps to prevent or mitigate identity theft."

Sections 6-3-13 through 6-3-20 Reserved.

Article B

The Code of the City of Soperton is hereby amended by adding an Article to be numbered B, which said Article reads as follows:

"Article B

Treatment of Address Discrepancies.

Section 6-3-21. Short Title.

Treatment of Address Discrepancies.

Section 6-3-22. Purpose.

Pursuant to 16 CFR § 681.1, the purpose of this Article is to establish a process by which the City will be able to form a reasonable belief that a consumer report relates to the consumer about whom it has a consumer credit report when the City has received a notice of address discrepancy.

Section 6-3-23. Definitions.

For purposes of this article, the following definitions apply:

- (1) 'Notice of address discrepancy' means a notice sent to a user by a consumer reporting agency pursuant to 15 U.S.C. § 1681(c)(h)(1), that informs the user of a substantial difference between the address for the consumer that the user provided to request the consumer report and the address(es) in the agency's file for the consumer.
- (2) 'City' means City of Soperton, Georgia.

Section 6-3-24. Policy.

- (1) In the event that the City receives a notice of address discrepancy, the City employee responsible for verifying consumer addresses for the purpose of providing the municipal service or account sought by the consumer shall

perform one or more of the following activities, as determined to be appropriate by such employee:

- a. Information the City obtains and uses to verify a consumer's identity in accordance with the requirements of the Customer Information Program rules implementing 31 U.S.C. § 5318(1);
 - b. Information the City maintains in its own records, such as applications for service, change of address notices, other customer account records or tax records; or
 - c. Information the City obtains from third-party sources that are deemed reliable by the relevant City employee; or
- (2) Verify the information in the consumer report with the consumer.

Section 6-3-25. Furnishing Consumer's Address to Consumer Reporting Agency.

- (1) In the event that the City reasonably confirms that an address provided by a consumer to the City is accurate, the City is required to provide such address to the consumer reporting agency from which the City received a notice of address discrepancy with respect to the consumer. This information is required to be provided to the consumer reporting agency when:
- a. The City is able to form a reasonable belief that the consumer report relates to the consumer about whom the City requested the report;
 - b. The City establishes a continuing relation with the consumer; and
 - c. The City regularly and in the ordinary course of business provides information to the consumer reporting agency from which it received the notice of address discrepancy.
- (2) Such information shall be provided to the consumer reporting agency as part of the information regularly provided by the City to such agency for the reporting period in which the City establishes a relationship with the customer.

Section 6-3-26. Methods of Confirming Consumer Addresses.

The City employee charged with confirming consumer addresses may, in his or her discretion, confirm the accuracy of an address through one or more of the following methods:

- (1) Verifying the address with the consumer;
- (2) Reviewing the City's records to verify the consumer's address;
- (3) Verifying the address through third party sources; or
- (4) Using other reasonable processes."

Article C

The preamble to this ordinance is hereby incorporated into this ordinance as if set out fully herein.

Article D

All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Article E

The adoption date of this ordinance is October 27, 2008.

Article F

The effective date of this ordinance is November 1, 2008.

ORDAINED by the Mayor and Council of the City of Soperton, Georgia this the 27th day of October, 2008.

ATTEST:

By: Becky Hooks
City Clerk

Mayor: Reginald E. Evans
City of Soperton, Georgia

APPENDIX D – Soperton WPCP Waste Load Allocation

National Pollutant Discharge Elimination System Waste Load Allocation Form

Part I: Background Information

WLA Request Type: Reissuance ☐ Expansion ☒ Relocation ☐ New Discharge ☐
 Facility Name: **City of Soperton WPCP** County: **Treutlen** WQMU: **0319**
 NPDES Permit No.: **GA0020826** Expiration Date: **06/09/2007** Outfall Number: **001**
 Receiving Water: **Little Red Bluff Creek** River Basin: **Oconee** 10-Digit HUC: **0307010212**
 Discharge Type: Domestic ☒ Industrial ☐ Both ☐ Proportion (D:I): Flow(s) Requested (MGD): **0.6 MGD**
 Industrial Contributions Type(s):
 Treatment Process Description: **Extended aeration Carrousel treatment followed by chlorination**
 Additional Information: (history, special conditions, other facilities):
 Requested by: **Michael Fortune** Title: **EE** Program: **ETSP**
 Telephone: **404-675-1600** Date: **12/11/2003**

Part II: Receiving Water Information

Receiving Water: **Little Red Bluff Creek** Designated Use Classification: **Fishing**
 Integrated 305(b)/303(d) List: Yes ☒ No ☐ Partial Support: ☒ Not Support: ☐ Criteria: **Biota**
 Total Maximum Daily Load Yes ☐ No ☒ Parameter(s) WLA Complies with TMDL Yes ☐ No ☐
No TMDL has been developed for this segment. Planned TMDL in 2006.

Part III: Water Quality Model Review Information

Model Type: Uncalibrated ☒ Calibrated ☐ Verified ☐ Cannot be Modeled ☐ Model Length (mi): **6.8**
 Field Data: None ☐ Fair ☒ Good ☐ Excellent ☐
 Model and Field Data Description: **Georgia dissolved oxygen sag water quality model.**
 Critical Water Temperature(°C): **26** Drainage Area (mi²): **0.5** 7Q10 streamflow at discharge (cfs): **0**
 7Q10 Yield (cfs/mi²): **0.04** Velocity (range fps): **0.05-0.2** 1Q10 streamflow at discharge (cfs): **0**
 Effluent Flow Rate (cfs): **0.92** 7Q10 IWC (%): **100** Mean annual streamflow at discharge (cfs): **0.5**
 Slope (range - fpm): **5 - 35** K1: **0.2 - 0.3** K3: **0.2 - 0.3** Escape Coef. (ft¹): **0.11** K2 (range):
 SOD: **Not Modeled** f-Ratio (BOD_u/BOD₅): **3** Background Hardness (as CaCO₃)(mg/L): **25**

The predicted minimum dissolved oxygen concentration is 5.22 mg/L, occurring 0.62 miles downstream from the discharge.

The modeling parameters cited above, except for the 1Q10 and 7Q10, are from the modeling analysis for the original waste load allocation. No review of, or revisions to, the modeling analysis or the waste load allocation were made.

Part IV: Recommended Permit Limitations and Conditions (mg/L as a monthly average except as noted)

Rationale: Same as current ☐ Revised ☒ New ☐
 Location: **Little Red Bluff Creek**

Effluent Flow Rate (MGD)	BOD ₅	NH ₃ -N	DO (minimum)	TRC (daily max.)	Fecal Coliform (No./100ml)	TSS	pH (std. units)
0.6	8.0	1.5	6.0	0.011	200	30	6.0 - 8.5

Additional Comments:

Priority pollutant permit limits and aquatic toxicity testing requirements are to be determined by PCEP.

Expanding discharges are required to prepare a Watershed Assessment and a Watershed Protection Plan for the watershed corresponding to the existing and planned service area of the wastewater treatment facility applying for the expansion. The Watershed Assessment and Watershed Protection Plan must be reviewed and approved by the Georgia Environmental Protection Division prior to operating at flow capacities greater than 0.4 MGD.

In-stream monitoring upstream and downstream from the discharge is recommended once per week during the entire year. Monitoring locations should include Little Red Bluff Creek immediately upstream from the discharge and downstream on Red Bluff Creek at State Road 199. Monitoring parameters should include water temperature and dissolved oxygen concentration. The in-stream monitoring is intended to establish the natural instream dissolved oxygen concentrations and to monitor the effect of the discharge on Red Bluff Creek.

Prepared by: **Paul Lamarre** Date: **02/04/2005** Reviewed by: Date:

Part V: Branch Chief Comments

Date: